

DEC 16 1983

ALEXANDER L. STEVAS.
CLERK

VOLUME I—Pages 1a-278a

No. 83-95

In the Supreme Court of the United States

October Term, 1983

**ERNEST S. PATTON, Superintendent, SCI—CAMP HILL,
and HARVEY BARTLE, III, Attorney General of the Com-
monwealth of Pennsylvania,**

Petitioners,

v.

JON E. YOUNT,

Respondent.

**On Writ of Certiorari to the United States Court of Appeals
for the Third Circuit**

JOINT APPENDIX

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**Petition for Certiorari Filed June 29, 1983.
Certiorari Granted October 17, 1983.**

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UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF PENNSYLVANIA

DOCKET ENTRIES

81 234 CA

Plaintiffs

YOUNT, JON E.

Defendants

BARTLE, HARVEY III

Attorney General of the Commonwealth of Penn-
sylvania

Cause

28 USC 2254 Petition for Writ of Habeas Corpus

Attorneys

Jon E. Yount,

C-8297

P.O. Box 200

Camp Hill, Pa. 17011

DATE NR PROCEEDINGS

1981

Jan. 8-1-MOTION—for leave to proceed in forma
pauperis and AFFIDAVIT OF POVERTY—of
petitioner, and PETITION—for writ of habeas
corpus, and BRIEF—of petitioner in support of
petition for writ of habeas corpus. JFG

2a *Docket Entries - District Ct. M.D. Pa.*

- Jan. 8-2-CERTIFICATE-of Authorized Officer of Institution stating that the petitioner has 34.80 in his account. JFG
- Jan. 8-J.S. 5. Copy to Judge Nealon.
- Jan. 15-3-REPORT OF MAGISTRATE-it is respectfully recommended that petitioner be permitted to commence this action in forma pauperis and that the same be transferred to the United States District Court for the Western District of Pennsylvania. (RAY) Copies to petitioner from WB. and Sec jfg
- Jan. 15-4-NOTICE-Exceptions to the report of the Magistrate must be filed within 15 days of the date of this report. Copies to petitioner from WB. and Sec jfg
- Feb. 10-5-ORDER-of Court, ... the court agrees that this action should be pursued in the Western District of PA. The recommendation of the Magistrate is therefore adopted. WHEREFORE, IT IS ORDERED, that this case be transferred to the US District Court for the Western District of PA. (N) Copies to petitioner and Mag. Durkin from N.-sec. copy in vault.
- Feb. 10-CASE FILE-transferred to W.D. of PA pursuant to order of Court dated 2/10/81 with c.c. docket entries and c.c. order re transferral. File consists of 5 documents.
- Feb. 10-J.S. 6

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF PENNSYLVANIA

DOCKET ENTRIES

81-234

PLAINTIFFS

CASE CLOSED

JON E. YOUNT

DEFENDANTS

ERNEST S. PATTON, Superintendent,

SCI—CAMP HILL, and

HARVEY BARTLE III, Attorney General of the
Commonwealth of Pennsylvania

Cause

28 USC 2254—Prisoner petition for writ of
habeas corpus (Transferred from MD of PA)

ATTORNEYS

Pro Se:

John E. Yount, C-8297, Box 200, Camp Hill, Pa.
17011

Federal Public Defender, 590 Centre City
Towers, Pgh, Pa. 15222

F. Cortez Bell, Asst D.A., P O Box 887, Clear-
field, Pa. 16830, for Comm. of Pa., Bartle.

☒ Check here if case was filed in forma pauperis
Filing Fee M. D. of Pa—IFP—no fee

DATE NR PROCEEDINGS

1981

Feb. 12-1-Following papers received by transfer from MD of PA and filed:

Certified copy of docket entries,

Petition for writ of habeas corpus and motion for leave to proceed in forma pauperis (original and 2 copies),

Certificate of amount in prison account,

Report of Magistrate Durkin recommending permission to petitioner to commence action in forma pauperis and transfer of action to the WD of PA,

Notice of Magistrate Durkin,

Certified copy of Order of Chief Judge, dated 2/10/81, adopting the recommendation of the Magistrate and directing transfer to WD of PA.

Feb. 12-Receipt for the file sent to MD of PA.

Feb. 18-2-Rule to show cause issued directing that after answer filed, Clerk to Secure state court records relative to No. 357 Jan. Term 1973 in Ct. Common Pleas of Clearfield County, Pa.; within 20 days of service, respondent and D. A. to file answer, Service of petition and this rule be made upon Atty Gen. of Comm. of Pa., D.A. of Clearfield County and respondent by US. Marshal, costs by U.S. (Mgt. Mitchell)

Feb. 18-5 cc of order and 3 copies of H.C. petition forwarded to Marshal for service

Mar. 3-3-Rule and order of 2/18/81 ret. served on D.A. of Clearfield County 2/27/81 by cert mail dated 2/24/81; on Atty Gen of Comm. of Pa. 2/26/81 by cert mail dated 2/24/81

- Mar. 16-4-Praecipe for appearance of counsel for Bartle, Comm. of Pa. filed.
- Mar. 16-5-Petition to extend time with proposed order filed
- Mar. 17-Order entered on petition filed 3/16/81 extending time for Comm. of Pa. to plead to 10 days (Mgt. Mitchell)
- Mar. 23-6-Petition's response to Commonwealth's petition for extension of filing to answer petition for writ of habeas corpus.
- Mar. 25-7-ANSWER to petition for Writ of H.C. filed.
- Mar. 25-Letter to Clearfield County Court for State Court records
- Apr. 6-8- Traverse to respondents' answer to writ of habeas corpus filed by petitioner.
- Apr. 14-State Court records rec'd from Clearfield County (*Huge* brown box)
- Apr. 16-9-Order entered appointing Federal Public Defender to represent pltf; matter set for conf. of counsel 4/30/81 at 10 (Mgt. Mitchell)
- Apr. 30-10-Order entered granting leave to file amended petition for writ of H.C.; upon filing of amended petition, D.A. to file answer; within 60 days, petitioner to file brief; within 20 days thereafter, DA. to file his brief (Mgt. Mitchell)
- May 29-11-Motion for permission to file amended petition for Writ of H.C. filed by pltf with pro/order

6a *Docket Entries - District Ct. W.D. Pa.*

- May 29 - Order entered on motion filed 5/29/81 permitting pltf. to file amended petition for H.C. by 7/1/81 (Mgt. Mitchell)
- July 1 - 12 - Amendment to petition for Writ of Habeas Corpus filed with proposed order
- July 30 - 13 - Motion for permission to file amended answer to petition for H.C. filed by defts with proposed order
- July 31 - Order entered granting motion to amend answer, same to be filed by 8/15/81 (Mgt. Mitchell)
- Aug. 17 - 14 - Answer to amendment to petition for writ of habeas corpus filed by defts.
- Aug. 31 - 16 - Petition to dismiss petition for Writ of H.C. filed by defts
- Sept. 17 - Order entered fixing hearing on H C. for 11/3/81 at 10; U.S. Marshal to Produce Pltf for hearing; costs by U.S. (Mgt. Mitchell)
- Sept. 18 - H.C. writ issued for Pltf.
- Oct. 21 - 17 - Motion filed and order entered directing petitioner shall issue the requested subpoenas and subpoenas duces tecum and that said subpoenas shall be served by U.S. Marshal or representative of Fed Public Defenders Office directing individuals named in the Schedules attached to this motion to be present before court - Mitchell, J. 11/3/81 to testify for pltf at 10; further that motion schedule subpoenas and this order be sealed and that only U.S. Marshal or Fed Public Defender office be permitted to view and utilize said motion, etc; costs by U.S. (Mgt Mitchell)(cc to Marshal; Fed Publ Def to serve)

- Oct. 21 - Pursuant to motion and order, doc 17
Gilbert W. Conley, Clerk
- Nov. 2 - 18 - Motion for service of subpoena and subpoena duces tecum together with order granting same, Mitchel, Mag. and directing that the document be sealed. Sealed envelope #2
- Nov. 3 - 19 - Hearing on Petition for writ of H.C. held before Mag. Mitchell, memo filed. (Rep. T. Thomas)
- Nov. 4 - 20 - Marshal form 285 returned served on Homer W. King, Esq. on Nov. 2, 1981, filed.
- Nov. 13 - 21 - Habeas Corpus petition returned served on Nov. 3, 1981 filed.
- Nov. 17 - Answer to motion for hearing filed by pltf
- Nov. 25 - 22 - Order entered directing Writ issue for pltf for supplemental hearing 12/28/81 at 10: costs by U.S. (Mgt Mitchell)
- Nov. 25 - Writ of H.C. issued for pltf.
- Dec. 1 - 23 - Transcript of hearing on petition for Writ of H.C. 11/3/81 before Mitchell filed (Rep. T. Thomas)
- Dec. 9 - 24 - CJA 24 voucher for payment of transcript for preparing brief of Pltf. in support of petition for writ of Habeas Corpus filed and approved by Mg. Mitchell in sum of \$304.00 and forwarded by Ct. reporter for payment
- Dec. 17 - 25 - Motion for issuance of subpoenas filed by pltf. with proposed order

8a *Docket Entries — District Ct. W.D. Pa.*

Dec. 18—Order entered on motion filed 12/17/81 directing pltf. shall issue subpoenas for Homer W. King, Esq. and Francis V. Sabino, Esq., same shall be served by U.S. Marshal, to be present for hearing on 12/28/81; costs by U.S. (Mgt. Mitchell)(cc issued)

Dec. 29—26—Continued Hearing on evidence held 12/28/81 before Mitchell, Magt. Memo filed (Rep. M. Cutright) (Tape #2-#4, Index 0-8)(Non-jury trial)

1982

Jan. 12—27—Transcript of continued evidentiary hearing held 12/28/81 before Mitchell filed (Rep. M. Cutright).

Jan. 14—28—H.C. of 11/25/81 ret. exec 12/28/81.
CJA24

Jan. 22—29—Copy 3 authorization and voucher for payment of transcript by M. Cutright for pltf. and approved by Mitchell J. in sum of \$136.00

Feb. 12—30—Mag's Report & recommendation filed (Mag. Mitchell).

Feb. 12—31—Order entered directing parties have 10 days in which to file objections to report & recommendation (Mag. Mitchell).

Feb. 22—32—Respondent's objections to Mgt report and recommendation filed.

Feb. 24—33—Motion for Bail filed by pltf pending H. C. petition with proposed order.

Feb. 25—34—Affidavit in support of Motion for bail filed by pltf.

- Mar. 2-35-Supplement to motion for bail filed by pltf. with proposed order.
- Mar. 4-36-Answer to motion for Bail filed by defts.
- Mar. 15-37-Amendment to petition for Writ of Habeas Corpus and amended petition for writ of Habeas Corpus filed by pltf with proposed order.
- Mar. 15-38-Notice fixing hearing on petition for writ of H.C. for 3/23/82 at 2:30 filed.
- Mar. 31-39-Hearing on petition for writ of habeas corpus held before Ziegler, J. CAV (Rep. F. Jones).
- Mar. 31-Order entered on amendment filed 3/15/82 directing certain portions as stated in this order, of pltf's petition for writ of Habeas Corpus and amended pet. excluded from the allegations made (Ziegler, J.)
- April 22-40-Opinion filed and order entered denying petition for writ of habeas corpus with prejudice (Ziegler, J.)
- April 22-Pursuant to Opinion filed and order entered petition for writ of habeas corpus is hereby denied with prejudice. Gilbert W. Conley, Clerk.
- April 22-Notices mailed.
- April 23-41-Order entered granting certificate of probable cause; issues are not frivolous (Ziegler, J.)
- May 21-42-Motion to supplement the record filed by pltf thru counsel with proposed order.

10a *Docket Entries - District Ct. W.D. Pa.*

May 21-43-Notice of appeal filed by pltf. thru counsel from order of 4/22/82 (No Fees- inapplicable)

May 21-CC of notice of appeal, cc of docket entries, copy of IFP granted in M. D. of Pa., copy of IFP granted this district, copy of opinion and order of 4/22/82 and copy of order granting CPC mailed U.S. Ct. of Appeals; copy of notice to Judge Ziegler, deft counsel Rep. T. Thomas, M. Cutright, F. Jones).

May 21-44-Order entered directing that those articles appearing in newspapers of general circulation prior and subsequent to the 3/31/82 hearing be made part of record; further that any and all correspondence received by court also be made part of record (Ziegler, J.)

June 3-45-Transcript purchase order filed by U.S. Fed Public Defender advising transcript already on file.

June 9-Pro se litigant defended by Public Defender and case complete for appeal purposes, original record, exhibits and State Court records and 2 sealed envelopes and 3 copies 1 certified of docket entries mailed U.S. Ct. of Appeals.

June 17-46-Answer to motion to supplement record with proposed order filed.

June 21-Order entered on Answer filed 6/17/82 granting that record is supplemented by addition of articles appearing in newspapers of general circulation prior and subsequent to 3/31/82 hearing (Ziegler, J)

June 21 - Doc. 46 mailed Circuit as 1st supp

June 28 - Letter from Ct of Appeal advising appeal docketed at 82-5372.

June 28 - Receipt for original record rec'd from Ct of Appeals.

June 28 - Receipt for list of exhibits rec'd from Ct. of Appeals (exhibits & State court records.

Jul 2 - Receipt for 1st supplement from ct appeals.

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

Docket No. 82-5372

Related Cases 83-5607, Calendared for: 12-17-82

Origin: Dist. of PA-Pittsburgh, Docketed: 6/24/82

DC Docket No. 81-234, [☐] Fee Paid [☐] IFP [☒] CJA

DC Judge Donald E. Ziegler, [☐]CPC Granted _____

Filed in DC 2-12-81

NOA Filed 5-21-82, Disclosure Applt. 7/8/82

Case Type Civil – Prisoner Petition for Writ of Habeas
Corpus Statement Appee. 7/7/82; 7/15/82

Title of Case

Jon E. Yount,

Appellant

vs.

Ernest S. Patton, Superintendent, SCI – Camp Hill,
and Harvey Bartle III, Attorney General of the Com-
monwealth of Pennsylvania

Appearances

Appellant/Petitioner: George E. Schumacher
7/8/82, Federal Public Defender, 590 Centre City
Tower, Pittsburgh, PA 15222, (412) 644-6565 FTS

722-6565 [Civil – Court Appointed – Federal Public Defender – 6/24/82]

Appellee/Respondent: F. Cortez Bell, III – member – 7/7/82, Assistant District Attorney, Office of the District Attorney, P. O. Box 887, Clearfield, PA 16830, (814) 765-9669.

Thomas F. Morgan – member – 7/15/82, District Attorney, Office of the District Attorney, P. O. Box 887, Clearfield, PA 16830, (814) 765-9669

Record, Exhibits & Brief Information/Filing:

6-24-82 – Record on Appeal [] IMPOUNDED

3 envelopes sealed in USCA Safe.

6-24-82 – 1st Supp. Record.

8-15-83 – 2nd Supp. Record.

9-1-83 – 3rd Supp. Record.

6-24-82 – Exhibits [x] EX. RM. [] SAFE w/Transcripts & St. Ct. Record 62 boxes)

6-24-82 – Briefing Notice Issued.

8/2/82 – Brief for Applt. MS 8/2/82

9/1/82 – Brief for Appee. MS 9/1/82 (25 cc)

9/16/82 – Reply B. for Applt. MS 9/16/82

8/2/82 – Appendix MS 8/2/82 (2 vol. 4cc)

12/6/82 – Appellee's Appendix – Received further information of the court.

Argued/Submitted 12/17/82

Panel Hunter & Garth, C.J. & Stern, D.J.

Opinion May 10, 1983 [xx] Signed

MO Hunter

Judgment, See page two for complete entry.

Mandate Stayed To: 6/30/83-Order of 5/25

Further Stayed To: 7/30/83-Order of 7/7/83

Certiorari filed 6/29/83 [xx] Granted 10-17-83 S.C.
#83-95 Reported at 710 F2d 956 (83)

Date 1982 Filings – Proceedings

Sept. 9 – Motion by appee. to file 7 ccs. of brief,
w/svc., filed.

Sept. 27 – Order (Clerk) granting above mot. w/filing
as of the date of this order, filed.

Dec. 6 – Letter dated 12-3-82 from George E. Schu-
macher, Esq., cnsl for aplt, rec'd. at direction of
Ct.

Oct. 22 – Clk's letr to cnsl for aplt written at direction
of Ct. requesting statement of jurisd, statement as
to whether this case has prev been before this Ct.
& whether there are any previous, pending or an-
ticipated appeals arising out of same proceeding.

Oct. 22 – Clk's letr to cnsl for aplees written at direc-
tion of Ct. requesting statement of subject matter
jurisdiction, statement of basis on which this Ct.
has appellate jurisdiction, statement as to whether
this case has previously been before this Ct. &
whether there are any previous, pending, or an-
ticipated appeals arising out of same proceeding,
cc of judgment appealed from, statement of stan-
dard or scope of review to be used by Ct. in this
matter.

1983

May 10, 1983—Judgment affirming insofar as the order of said District Court held that petitioner's constitutional right against self-incrimination was not violated by the admission into evidence of his oral statements, vacated insofar as it held that retrial in Clearfield County did not infringe petitioner's right to a fair trial by an impartial jury, and the cause remanded to the District Court with the direction that a writ of habeas corpus shall issue unless within a reasonable time the Commonwealth shall afford petitioner a new trial, filed.

May 20—Motion by Appellees for stay of mandate in order to file petition for writ of certiorari to and including June 30, 1983, filed. (w/serv)

Jun 10—Corrected. Opinion (*Hunter*, & Garth, Circuit Judges and Stern, District Judge*)-Corrected majority opinion filed May 10, 1983 together with Judge Stern's Concurring opinion and also Judge Garth's concurrence incorporated in the judgment opinion. *sitting by designation.

June 29—Motion by appellees to extend the issuance of the mandate, filed. w/serv.

**PROCEEDINGS IN THE COURTS OF
PENNSYLVANIA**

[35]

. . .

VERA K. KRAPF called by the Clerk.

BY MR. HILL: Juror look upon the defendant; defendant look upon juror.

Q. You do swear by almighty God, the searcher of all hearts, that the answers you shall make to the questions asked you concerning your qualifications as a juror, shall be the truth, the whole truth, and nothing but the truth, and as you shall answer to God at the Great Day?

A. I do.

BY MR. REILLY:

Q. How long have you lived in Clearfield?

A. It was four years and four months on July 1, of '66. Four years and four months now.

Q. And how many children do you have?

A. Three.

Q. What are their ages?

A. Thirty, thirty-seven, and 20.

Q. Do they live in this area?

A. The youngest goes to college in Clarion and this is her home and the other two live away. One in Greensburg and one in Berwick.

[36] Q. Mrs. Krapf, are you acquainted with the defendant Jon Yount?

A. No, I never have.

Q. Have you ever met him?

A. No I never have.

Q. Or any members of his family?

A. No.

Q. Do you know any of his attorneys seated at counsel table, Mr. Blakley, Mr. King, or Mr. Sabino?

A. No, I don't know them at all.

Q. Mrs. Krapf, have you formed a fixed opinion as to the guilt or innocence of this defendant?

A. Through the years I've heard so many—it's hard to tell what my own is, but do you want me to tell you what it is?

Q. No. If you were selected as a juror in this case would you be able to determine your vote at the end of the trial solely on what you heard from the witness stand and from what the Court told you the law is?

A. I believe I could. I feel it's almost impossible when you have heard opinions given for several years.

Q. But you feel you could base your verdict solely on the law and evidence that would be presented at this trial?

A. I certainly would do my best.

BY MR. REILLY: Pass the Juror.

BY MR. KING:

Q. Mrs. Krapf, I don't know if Mr. Reilly asked you—what does [37] your husband do?

A. He's a Methodist Minister two blocks down, the church that burned two years ago.

Q. While that's being restored is he preaching someplace else?

A. No, our parish house wasn't burned so we are having all our activities in the parish house. We're a little cramped but we are carrying on.

Q. Did you tell us where your children work?

A. The oldest one is in Greensburg, and the second one is a Minister in Berwick, Pennsylvania and the youngest one is in Clarion College.

Q. The one in Greensburg—

A. She is married to a man that works in McKeesport and she herself is a public school teacher.

Q. Have you read any newspaper articles or magazines about Mr. Yount?

A. Yes I have through the years from time to time and I have heard it discussed by others and actually I couldn't have helped but have somewhat of an opinion because of what has been discussed and read prior to my receiving this notice.

Q. Have you ever been called or served as a juror before?

A. I was called last December for traverse jury but all cases had been settled out of Court so we didn't get in on them. One other time I was called but I moved; my husband's work was transferred so I was no longer eligible so this is the first time I came to this point.

[38] Q. Do you know any members of the Rimer family?

A. Not to my knowledge. Here in Clearfield?

Q. In Clearfield or around Luthersburg?

A. No, we are not acquainted at all in the Clearfield area until we came here four years and four months ago.

Q. Where did you come from?

A. Emporium, we were there five years and seven years in Holidaysburg, before that six years in Altoona.

Q. Do you know Mr. Reilly?

A. Just by sight. This is the first time I've been this close.

Q. He's not a member of your husband's church?

A. No.

Q. The gentleman to his right, Mr. Fennell?

A. I don't know him.

Q. Are you acquainted with any members of the State Police?

A. Not personally. I have called a couple times about road conditions but I have never known them personally.

Q. They all hear from us about that now and then. Mrs. Krapf, due to what you have read and conversations you've heard or discussions you have heard concerning Mr. Yount, do you personally have a fixed opinion as to his guilt or innocence?

A. From what I have read and heard discussed with—nothing I volunteered, but you hear it discussed in groups in churches and stores and so forth, and they seem to feel and I've heard this opinion—I felt he had a fair trial and was given a just sentence.

[39] Q. Then may I take it that you do have a fixed opinion as to his guilt as was—

A. As was disclosed during the—over the years—as I recall, it happened in the Fall of '66 and we had only been here just a short time when this occurred and people discussed it and through the years people have discussed it.

Q. And you feel you are of the opinion, as I understand then, that he was guilty and you have the opinion he is still guilty?

A. So far as any evidence that I heard discussed was always the same—other people, and not knowing anything about it except hearsay and reading the paper it seemed it was a just sentence to me and a fair trial and I felt at the time—I was glad he didn't get the electric chair, and I definitely am opposed to capital punishment if that should be involved in this.

Q. But you do have a fixed opinion as to his guilt based upon these various reasons you have given?

A. Yes. Granted, it was only one sided because I never heard the other side. But if capital punishment is an issue to be involved, I definitely am opposed to capital punishment. I know there are—

Q. Were you going to add something?

A. We are told from time to time, and especially with a girl in college—they have these sociology

courses and we study and sometimes it sounds that's the best thing to do but when you come down to thinking of yourself as one of twelve people of which they would vote for capital punishment, I'm sure I couldn't send anybody to [40] death because I think every human being has the possibility of becoming—in the church we say to be converted—and being a changed person under the right circumstances and might be able to do good with his life even if spent in prison, but I think he could do good as long as he was in prison but not if he was gone so I would not favor capital punishment. I would favor other punishment.

Q. When you say after he was gone—

A. After he was put to death—I don't even know if that is involved here. Before I was notified a number of people said he won't get any worse than he got. The trial was to get more leniency. I probably don't know. But on capital punishment I would vote no.

Q. You would vote no. You would not impose—

A. I would not be one to say he gets the death sentence because that is not in my power for him to give up his life.

Q. This duty, do you feel because your husband is in the ministry?

A. Probably because we work with all kinds of people who make mistakes and one of the purposes of Christianity is to give them another chance—those who have made mistakes, even though we know they're wrong—maybe they could do right if they had the right background—was—was—and also the right opportunities to improve.

Q. Mrs. Krapf, even though the law says, and the Judge would instruct you, that a person accused of a crime is not required to take the stand and to testify in his own behalf, would you be influenced by the failure of an accused to take the witness stand and testify?

[41] A. To testify in his own behalf?

Q. Yes. Would the fact that he did not do that, would that influence you, maybe against him?

A. No, I don't think so. You've heard so much about civil rights lately. A Man doesn't have to. He isn't required to testify against himself any more than a husband and wife are required to testify against his mate.

Q. Mrs. Krapf, is there anything in your home situation personally, due to the fact that your husband is a Minister and you obviously work with him, is there anything in that situation that would make it awkward or difficult, extremely so that is, for you to serve for perhaps a protracted period of time as a juror?

A. Well, I do a lot of work in Church. Mr. Manos back there can vouch for that. I teach Sunday School and help with all the activities of the Church.

Q. Would it—the question is, whether or not your situation at home would work a great hardship on you and your husband if you were not to be at home for a period of time.

A. One or two days, or what, or don't you know?

Q. I really can't say, but since you are familiar with the other procedure that was involved here, we were here about two weeks.

A. I wasn't here. I didn't serve as a juror.

Q. You asked me how long a period I was talking about and I said I don't know but you said you were familiar with the previous proceeding involving Mr. Yount and I merely was telling you we were [42] here for two weeks on the last proceeding.

A. I didn't know the time of it.

Q. Now my question is whether or not—I'm not telling you we'll be here two weeks—I don't know. My question is, is there anything in your home situation or your husband being in the Ministry which would make it hard or difficult if you were away for a time—for a period of time?

A. It would be quite an inconvenience because of various things coming up.

Q. Such as to make it impossible for you to be away for a period of time?

A. I guess it wouldn't make it impossible but it would be a little unhandy. I have company coming and a couple weddings coming up and duties of that nature.

Q. Would your presence in serving as a juror create a difficulty in your parish?

A. Why yes—when people heard my name was on for this—countless people of the church have come to me and said they hoped I would take—the stand I would take in case I was called. I have had a prejudice built up from the people in the church.

Q. Is this prejudice, has it been adverse to Mr. Yount?

A. Yes it was. They all say he had a fair trial and he got a fair sentence. He's lucky he didn't get the chair.

BY MR. REILLY:

We object to any questions about what prejudice was involved, if [43] there is a prejudice, but questions as to which direction it lies is inadmissible and we would object.

BY THE COURT:

I think he was entitled to the answer.

BY MR. REILLY:

But he asked if they were adverse to the defendant—

BY THE COURT:

I believe he asked her that to find out if she would be adversely effected by being on this jury because of that prejudice. I think it is entirely proper—I would overrule the objection.

BY MR. KING:

Q. To further clarify what we've been talking about and what the Court has pointed out, do I understand people in your church have strong feelings about this matter and have attempted to influence you along those lines and, therefore, do you feel that whatever you did on this jury would be subject to some criticism and do you feel that this would effect your fair and impartial, what would be an otherwise fair and impartial judgment?

A. I think so because having had this for four years on and off and more recently all the time.

Q. Do you feel, notwithstanding the Court would instruct you to put aside everything from your mind except what occurred in the Court Room, that you would still have that fear in the back of your mind or apprehension of what your parishioners would say to you later on because of your service. Is that the way you feel?

[44] A. I am afraid so. I would try to be fair and eliminate everything I have ever heard about it. I would try, but whether I could—it would be pretty difficult.

Q. We are sure you would, but you do feel you would be subject to these other pressures and possible retributions and that fear would effect your judgment?

A. Yes because I believe it would be there.

Q. Have I fairly stated the position—to try and help you tell us how you would actually feel and think, notwithstanding the instructions of the Court?

A. I would try to accept that but to say I could dismiss all that has been told and felt—and the church people—I haven't asked for any of this but they discuss it in every group—but they say now since you are chosen and you will be there we expect you to follow through—

Q. Notwithstanding what the Court would tell you, you feel you would be subject to the retributions or retaliation of these people—

A. I think I would hear about it.

Q. This would therefore, effect your ability to comply with the Court's instructions. Is that correct?

A. I'm not sure, but I think it would be there.

BY MR. REILLY:

Q. Do I understand your testimony that if you were a juror in this case, following the close of the case and the Judge's Charge, that is his instructions to you as a juror, you would make, you would [45] base your verdict solely on the evidence you heard and the Charge that the Judge would give—you would make every effort to do that?

A. I would make every effort yes, but I'm not sure I could eliminate everything I heard before.

Q. But you would make an effort to do that?

A. I would try to be as fair as I could.

BY MR. REILLY:

We would accept this juror.

BY MR. KING: Challenge for cause.

BY THE COURT:

Challenge for cause is granted.

BY THE COURT:

We will now grant a ten minute recess. 11:05
a.m.

11:15 Court re-convened.

. . .

[61]

. . .

BLAIR HOOVER called by Clerk.

BY MR. HILL:

Juror look upon the prisoner; prisoner look upon the juror.

Q. You do swear by Almighty God, the searcher of all hearts, that the answers you shall make to the questions asked you concerning your qualifications as a juror, shall be the truth the whole truth, and nothing but the truth, and as you shall answer to God at the Great Day?

A. I do.

BY MR. KING:

Q. Where do you live Mr. Hoover?

A. At Morrisdale, R D, located between Lanse and Crass Flat.

Q. And are you married?

A. Right.

[62] Q. What does your wife do?

A. She's just a housewife.

Q. Do you have any children?

A. One.

Q. How old?

A. Fifteen.

Q. Boy or girl?

A. Girl.

Q. What does she do?

A. Goes to school.

Q. And what school does she attend?

A. West Branch Area School.

Q. By whom are you employed Mr. Blair—I'm sorry, Mr. Hoover?

A. I'm employed by Pennsylvania Funds Company of Philadelphia.

Q. What kind of organization is that—just briefly?

A. That is an investment company of mutual funds—I am a mutual funds salesman you would say.

Q. Do you do that around here—meaning in Clearfield County or do you work in other counties and out of State?

A. I work basically in Clearfield and Center Counties but I do go over the State of Pennsylvania but I do not go out of the State.

Q. Do you know Jon Yount?

A. I have never met the man in any way.

Q. Do you know any members of his family?

A. No.

[63] Q. Do you know a family by the name of Rimer from around Luthersburg?

A. No.

Q. How long have you lived at your present address?

A. All my life.

Q. Can you—Mr. Hoover give me an idea where Morrisdale is?

A. Yes, I say it's located—are you acquainted—do you know where Kylertown is?

Q. Kylertown?

A. Do you know where Exit 21 is on Interstate 80?

Q. Generally.

A. I'm really, it's at the lower end of the County. I'm just about a mile from the border of Center County on the Eastern edge and if you've been on Interstate 80—do you know where the large bridges are that cross over from Center to Clearfield—I can sit on my porch and look at those bridges. This will give you close enough.

Q. Sort of in the Southeastern portion of Clearfield County?

A. Right.

Q. Are you acquainted with Mr. Reilly or Mr. Fennell?

A. I just know them from in here at Clearfield.

Q. When you say you know them—have you ever been served by them in their legal capacity?

A. No.

Q. Or have they ever been customers of yours?

A. No.

Q. Have you ever attended social engagements with them or belonged [64] to the same clubs or club to which they belong?

A. Not that I know of.

Q. I gather you are not a Kiwanian?

A. No, not here in Clearfield I'm not—some of my organizations I belong to are in Philipsburg rather than in Clearfield.

Q. Now, do you know anything about Mr. Yount or have you read anything about Mr. Yount?

A. Well, it was pretty hard to be here in Clearfield County and not read something in the paper—that is, some newspaper articles. Yes, I have read some things in the paper about it.

Q. And have you read any magazines?

A. Not that I recall as magazines.

Q. Did you hear any radio or television stories or broadcasts about him?

A. I couldn't help that either here in the County.

Q. Have you had occasion to hear Mr. Yount's matter discussed by other people?

A. Yes, as I say, being around people you can't help but hear this.

Q. Have you heard other people express opinions as to his guilt or innocence?

A. Oh, definitely.

Q. Do you have any kind of fixed opinion as to his guilt or innocence?

A. On this question I would have to hear both sides—the facts—before I feel that I could express a true opinion.

Q. The question was, Mr. Hoover, whether or not you have an opinion [65] now, at this time?

A. No.

Q. No opinion at all?

A. No.

Q. Did you prior—

A. This is no opinion either way.

Q. You say you couldn't be around Clearfield County and not know all about this matter, is that right?

A. Right.

Q. And back at the time you heard these things and read these things, did you have an opinion?

A. Let's see. I would say that you'd come to some opinion, as far as just opinion on what you heard or what you may have read, but to me, as the way I've seen things in papers, in many papers, not to discredit any one paper, this don't say this is fact. So as far as forming a true opinion, I couldn't just do it by what I read. You'd read one thing and then another and somebody else would say something else. There was a lot of different opinions and I heard opinions both ways on it, in many different ways. Does that answer your question?

Q. It makes me think of a couple more.

A. Let me say this. If this would help you any, as I say, I heard as far as hearing—it wasn't one sided. I heard both ways so until you would know the true facts you couldn't—no one could come to a true opinion.

Q. People—you said you heard people express opinions to you who [66] did not have the benefit of any more knowledge than you had—isn't that true?

A. Right—this is it. That's why I couldn't come up with—or have a true opinion and, but let's say—in any one way—this is just hearsay. Same as in the paper—what you may read, which I don't recall reading anything out of a magazine at the time, but naturally there was things in our daily paper, but still—things have been distorted in papers and I came to the conclusion a long time ago, regardless of what it is, unless you have the bare facts yourself, you don't know what it is.

Q. Mr. Hoover, if you were to be asked to serve on a jury in this matter and the time element might be protracted, would this have any effect on your health or business life or your home life in any way?

A. Oh, this would depend on how long. It isn't that I couldn't serve on—I feel that I could serve on it—there would be naturally some things that no doubt would have to be changed until I got back home a little bit but that would be it—that's all I have to say—it would depend on the length of time.

Q. Are you telling us it would be inconvenient as for everybody—your business would not suffer too much or to such a point it would prohibit you from serving?

A. I can't see it right now for my business—I'm on commission—So, if I don't sell, I'm not just gonna be there, period.

Q. That's the point Mr. Hoover, would your business then be definitely effected by not being out there selling?

A. To a certain extent, yes.

[67] Q. Now, then, would that fact then, influence you or cause you to not be able to give as much attention to the matter at hand—say listening to a trial—would you be concerned and worried and affected by your inability to be producing, so as your judgment might be effected?

A. This to me—this would have no bearing on it.

Q. You were aware because you had read papers and heard discussions about Mr. Yount back at the other proceeding I think you told us, is that correct—since you are in the sales business and coming in contact with people all the time—this is your business—would the fact that you were to serve on a jury concerning this matter effect you business-wise so far as your relationship with your clients is concerned?

A. No, I don't think. That is, let me ask this question—I've never been involved like this and I don't—once we are in the jury box would I be able to talk to my wife as far as financial affairs or would I not?

BY THE COURT:

No. No contact with anyone except for emergencies—purposes of health and deaths and so forth.

BY MR. KING:

Q. You would not be able to run your business from the jury box, no.

A. I don't mean that but I thought—and—no, I still—as far as it is right now anyway, I don't. It shouldn't, it shouldn't hurt it, my business.

Q. The thing I am asking you about Mr. Hoover, is whether or not [68] your serving as a juror on this matter would subject you to perhaps criticism or even prejudice so far as your business clients are concerned and that being a fact would, therefore, your judgment be effected insofar as what verdict or judgment you might render if you sat as a juror?

A. No, I don't think. As far as criticism—this would—at least I haven't seen anything; in my own mind I don't feel this way unless it would be something that would turn up after it was all over or something like that, but to me, I feel that this would be no problem.

Q. You know your own clients Mr. Hoover and that's the reason I'm asking the questions. Do you think something you might do or decide would have an effect upon you later on to the effect that you will think about this in the meantime and effect your judgment in this matter?

A. No, if I'm gonna be in the jury box now or whenever it is, I'm gona have my mind on the work or I don't want to be there.

Q. Mr. Hoover, the Court will probably—would instruct you that the defendant has a right not to take the stand and is not required to testify in his own

behalf and from this you may not make any adverse inferences. Now would you be able to follow the Court's instructions and not hold it against an accused that he did not take the stand and testify in his own behalf. Would you be able to do that is my question?

A. Yes, I feel so.

[69] Q. Are you acquainted with any police officers or any members of any police enforcement agency? State Police or local Police?

A. I know them. They know me better than I know them but not real, what you would call close personal friends.

Q. You have no members of the State Police as clients or customers?

A. No.

Q. Or any local law enforcement agency?

A. No.

Q. Notwithstanding what you have read and heard concerning Mr. Yount, are you able to presume Mr. Yount innocent of any offense at this time?

A. Well, I feel any man or woman is innocent until proven guilty.

Q. My question is, do you feel that way concerning Mr. Yount at this time?

A. That would cover Mr. Yount too. I said any man or woman.

Q. You definitely have that feeling about Mr. Yount at this time—that he is innocent?

A. He would have to be innocent until proven guilty.

Q. And you feel that way at this time?

A. That's what I said.

Q. Do you know Mr. Charles Hoover?

A. Is that Charles Hoover from Morrisdale?

Q. That's what it says here in my little book, yes.

A. Yes, I know who you mean. He lives at Morrisdale. Now that's about 8 miles from where I live. I know the man.

[70] Q. Do you know William R. Hoover?

A. William R.?

Q. An insurance man who lives in Clearfield. Is he related to you?

A. No, and neither is Charles Hoover.

Q. Charles is not related either?

A. No.

Q. We have another one—what about Sandra Hoover?

A. Sandra Hoover—no. The only one I know there is Charles Hoover. I know him but no relation whatsoever—not even distant relation.

BY MR. KING: We pass the juror.

BY MR. REILLY:

Q. Are you acquainted with Mr. Blakley, Mr. King, or Mr. Sabino, the attorneys for the defendant?

A. No.

Q. You've never had occasion to engage their services in any legal matter which you may have had?

A. No.

BY MR. REILLY: Pass the Juror.

BY MR. KING:

Defense accepts the Juror.

BY MR. REILLY:

The Commonwealth accepts the Juror.

BY THE COURT:

You will kindly take your place in the jury box and there be sworn.

[71] BY MR. HILL:

You do swear by Almighty God, that you will well and truly try and true deliverance make, between the Commonwealth of Pennsylvania vs. Jon E. Yount, defendant, and a true verdict give according to the evidence and that as you shall answer to God at the Great Day?

A. I do.

BY THE COURT:

Mr. Hoover, you are going to be conducted to a jury room and there you will remain until again called. You are going to be sequestered and, therefore, if you, and I am sure you must have, if you have any personal wants such as pajamas or things of that nature, please notify the Tipstaff, Mr. Thompson and make a list if you wish and he will call and have them

delivered to you. Your lunch will be served in the jury room today. The rest of the time you will be sequestered in a motel in DuBois and you will there be housed and fed during the course of this proceeding. I admonish you at this time and at all recesses—at all times, that you allow no one to talk to you about the case, that you not talk to anyone about the case and if anybody should talk about the case to you or within your hearing you are bound—and duty-bound to report the same to the Court.

You will now be taken to the jury room there to remain until further called.

This Court is now in recess until 1:30 o'clock.
12:12 p.m.

. . .

[203]

. . .

CLAIR CLAPSADDLE called by the Clerk.

BY MR. HILL:

Juror look upon the prisoner; prisoner look upon the juror.

You do swear by Almighty God, the searcher of all hearts, that the answers you shall make to the questions asked you concerning your qualifications as a juror, shall be the truth, the whole truth, and nothing but the truth, and as you shall answer at the Great Day?

A. I do.

BY MR. SABINO:

Q. Mr. Clapsaddle, where do you live?

A. Grampian.

Q. Do you live right in Grampian or outside?

A. This side about three quarters of a mile.

Q. On the Clearfield side?

A. On the Clearfield side, yes.

Q. How long have you lived there?

A. All my life. Not there—in Penn Township all my life.

Q. Are you married?

[204] A. Yes sir.

Q. Do you have any children?

A. Five.

Q. Would you give us their ages and sexes?

A. Ages?

Q. Yes and sex.

A. The oldest is a girl, 36; the second one is a girl 36, not 36, 32; the boy next is 29; and, boy 28, and one girl 23.

Q. Are all your children married and living away or do some still live with you?

A. The youngest one is still with us.

Q. The youngest one is with you?

A. Yes sir.

Q. By whom are you employed?

A. I'm a construction worker. Right now I'm not employed by anybody.

Q. Is your wife employed?

A. No sir.

Q. Is your daughter who's still at home employed?

A. Yes sir.

Q. By whom?

A. Up here at McGregor's at Hyde City.

BY THE COURT:

That's sportswear.

BY MR. SABINO:

Q. Your older children, are they still living in this area?

[205] A. Two are and two live in Tonawanda, New York.

Q. The ones in this area, by whom are they employed?

A. Neither one employed. They're girls, neither one employed.

Q. Both are married?

A. Yes, housewives.

Q. And you are presently out of work?

A. Yes, right now.

Q. Do you know Jon Yount?

A. No I don't.

Q. Do you know any members of his family?

A. No I don't.

Q. Do you know any people that know Jon Yount?

A. None that I recall.

Q. Have you heard about Jon Yount and matters dealing with legal matters we are pertaining to here—have you ever read about these matters?

A. In the newspapers.

Q. When was that?

A. Well, not lately I haven't that I know of. It is possibly three or four years—a couple years ago—I don't know. I was working in Erie in '66, '67 and '68, so I don't remember too much when it was.

Q. I see. Have you ever heard any radio or television accounts or broadcasts dealing with Mr. Yount?

A. Well, I suppose I have heard some over the time. You could hardly miss it on the news.

[206] Q. Do you know the Rimer family from Luthersburg?

A. No I don't.

Q. Do you know any people that know the Rimers, that you are aware of?

A. No sir.

Q. Now, the material that you have read and heard—has it caused you to form any opinion concerning the guilt or innocence of Mr. Yount?

A. No, I don't believe too much in any respect of it, no. You know what I mean. Naturally some of it you do, yes.

Q. You have formed some opinion?

A. Well, yes.

Q. Now, is that opinion rather firm and fixed in your mind?

A. Well, I couldn't say it would be, no.

Q. Are you aware of a principle of law we have in Pennsylvania that says an individual who is accused of a crime is presumed innocent until proven guilty—are you aware of that?

A. Yes sir.

Q. Would your present opinion be such that you could accept that principle of law I just mentioned to you?

A. Yes I could.

Q. You could put your present opinion out of your mind and accept the general rule that Mr. Yount is presently presumed innocent until proven guilty?

A. That's the way it's suppose to be and..

Q. Assuming it is supposed to be one way—my question is, will you accept it?

[207] A. Yes.

Q. Would you?

A. Yes.

Q. Now Mr. Clapsaddle, do you have any other activities or avocations outside of work—are you involved in any other kinds of activities?

A. That depends on what you mean?

Q. Do you have any hobbies?

A. No, no hobbies.

Q. Do you belong to any clubs?

A. No sir.

Q. Do you come into contact with any numbers of people in your activities or are you generally around home all the time?

A. I'm usually around home when I'm not working.

Q. Have you ever discussed or talked to other people about Mr. Yount or his case?

A. Yes I have.

Q. When would that have been?

A. Possibly just recently maybe knowing this thing was coming up, that's all.

Q. You mean since you received the notice you would be a possible juror, you have had discussions with others?

A. No more than would be inside your own family because I always worked away from around home, among strangers.

Q. But among your family you have had discussions?

A. Yes.

[208] Q. With others, other than your wife?

A. Not that I know of, no.

Q. Has your wife expressed an opinion to you concerning Mr. Yount's guilt or innocence?

A. No, not that I remember.

Q. She's not expressed her opinion?

A. Not her opinion, no.

Q. Has she expressed anybody else's opinion to you?

A. No.

Q. Now, if you were to be on the jury in this case, the Court would instruct you that an accused need not take the witness stand in his own defense and if he did not take the witness stand, you would not be permitted to infer any guilt on his part by his failure to get on the witness stand. If that was to occur would you accept the Court's instructions?

A. Well yes.

Q. Would you be able to, assuming the defendant failed to take the witness stand, with the Court's instructions as I mentioned to you before, would it influence your thinking at all with respect to the guilt or innocence of Mr. Yount?

A. I don't believe, no.

Q. Is there any pressure that might be exerted on you by your friends or associates if you were to be a juror in this case?

A. No.

Q. Is there anything about your home life, your health or your [209] wife's health or your employment

that would prohibit or would be some detriment by your staying here for some time as a juror?

A. No, I'm not working so that wouldn't really matter.

Q. Did you have occasion to read the newspaper last night, Mr. Clapsaddle?

A. No I didn't.

Q. You did not?

A. I didn't read it at all.

Q. Since you have been here since yesterday morning, have you had occasion to discuss this case at all with people either out in the anteroom or at home?

A. No.

Q. Did you discuss the matter last evening with your wife when you got home?

A. None other than she asked me if I was picked and that was all that was said.

Q. Did she indicate she would have been happy or unhappy about that possibility?

A. No.

BY MR. SABINO:

We pass the Juror.

BY MR. FENNELL:

Q. Are you acquainted with Mr. David Blakley, one of the defendant's attorneys?

A. David Blakley?

Q. Yes.

[210] A. No.

Q. Are you acquainted with Mr. King or Mr. Sabino who's asking you the questions?

A. No.

Q. Do you believe you could, if chosen as a juror in this case, listen to the testimony presented here in Court, listen to the law as propounded by the Judge, and render a fair and impartial verdict based solely upon those two things?

A. I could, yes.

Q. You are not acquainted with Jon Yount then, I presume?

A. John who?

Q. I believe you stated you were not acquainted with Jon Yount, the defendant?

A. Yount, no.

Q. Are you acquainted with any members of the Rimer family at Luthersburg?

A. Not that I know of.

BY MR. FENNELL:

Pass the Juror.

BY MR. SABINO:

Q. Are you familiar with either Mr. Reilly, the District Attorney or Mr. Fennell, the Assistant District Attorney?

A. Never met them.

Q. Is there anything you know of at this time which would influence your judgment in this case if

you were a juror other than the evidence [211] which would come forth in this case at this time?

A. No.

Q. Mr. Clapsaddle, at one point you did indicate you had had some opinion?

A. Yes.

Q. Are you able to erase that opinion from your mind now and afford the defendant the presumption of innocence?

A. Yes I could, yes.

Q. Have you done it. Can you do it now?

A. You mean erase the opinion?

Q. Yes?

A. Yes I could, yes.

Q. Having been informed again, let me just say this once more—having been informed now that the defendant is entitled to this presumption of innocence that I mentioned to you, have you erased your opinion and are you now affording the defendant that presumption?

A. That he is innocent?

Q. Yes, until proven guilty?

A. Yes.

Q. Would you require the Commonwealth to produce the evidence to prove him guilty?

A. Yes.

Q. Or would you require that the defendant come forth with evidence to prove he is innocent?

A. Oh, yes.

[212] Q. Which would you require?

A. Well, you couldn't require either one until you got all the facts.

Q. What?

A. You couldn't prove either one, guilty or innocent until you heard all the facts in the case.

Q. No, my question is..

BY THE COURT:

I would like to make it clear. The law is, no defendant has to prove his innocence. His guilt must be proved by the Commonwealth beyond a reasonable doubt. Can you accept that?

A. Yes I can.

BY THE COURT:

I think this witness has answered these questions?

BY MR. SABINO:

Q. Mr. Clapsaddle, would you require the defendant to produce evidence as to his innocence?

A. Would I what?

Q. Would you require the defendant, Jon Yount, to produce evidence as to his innocence?

BY MR. FENNEL:

I believe we have gone into this matter and I believe he answered.

BY THE COURT:

I think so too and I believe you asked questions that come up at trial. He said that Mr. Yount does not have to prove his innocence. Did I so understand?

A. Yes.

[213] BY THE COURT:

This is getting extended far beyond what is proper.

BY MR. SABINO:

Defendant accepts the juror.

BY MR. FENNELL:

Commonwealth will accept the juror.

BY THE COURT:

The Clerk of Courts will kindly swear the juror and you will seat the juror.

Juror took place in front of Seat No. 2. in Jury Box.

BY MR. HILL:

You do swear by Almighty God, that you will well and truly try and true deliverance make, between the Commonwealth of Pennsylvania vs. Jon E. Yount, defendant, and a true verdict give according to the evidence and that as you shall answer to God at the Great Day?

A. I do.

Juror seated.

BY THE COURT:

Mr. Clapsaddle, our provisions or procedure for trial is such that you are not to remain seated in the Jury Box during the voir dire of the other witnesses. Therefore, the tipstaves will conduct you to a jury room where you will remain with the other juror already chosen until you are given further directions.

Now, Mr. Clapsaddle, the Court admonishes you and orders you not to talk about this case with anyone nor allow anyone to talk about [214] it with you, nor permit within your hearing, anyone to talk about it, except among the jurors, of course. You jurors are certainly, in your privacy permitted. No one else, no one and there is no exception to that. Even the tipstaves may not discuss the case with you. However, you are in case of necessity allowed to ask the tipstaves to get anything for you personally and they will call your home for you if you will just write a list. A paper and pencil is permitted. That only goes to the tipstaves and its only for what you want brought here for your personal use while you are sequestered. You will not now return home until this case has been disposed of. So, Mr. Clapsaddle, when you're in the jury room make your list and they will obtain your clothes and what all your want. During your period of sequestration they will also obtain your other personal wants for you. Now Mr. Clapsaddle, during the period of your sequestration you will not be permitted newspapers, magazines, radio, television or anything of that nature. All telephones have been removed from the jury rooms and you can't telephone. We would ask you to be extremely careful not to declare anything when you are walking to and from the box or to and

from your dining rooms. Be sure that you don't refer to the case so that you will not be overheard to talk about this case whatsoever. Therefore, if you do not talk about this, you cannot be overheard. We ask that you use extreme common sense to realize that these rules are entirely proper in justice, not only to the defendant, but to the Commonwealth too; to the defendant, to the attorneys and to everyone who may be influenced directly or indirectly, [215] and, therefore, we ask your patience and your consideration through the whole of this period in accepting the fact that you must abide by all of these rules which we have imposed upon you by law. So with that, you will now be conducted to the jury room by the tipstaves.

. . .

[367]

JOHN YORKE called by the Clerk.

BY THE CLERK:

Juror look upon defendant; defendant look upon juror.

You do swear by Almighty God, the searcher of all hearts, that the answers you shall make to the questions asked you concerning your qualifications as a juror, shall be the truth, the whole truth, and nothing but the truth, and as you shall answer to God at the Great Day?

A. I do.

BY MR. KING:

Q. Mr. Yorke, would you tell me your address please?

A. 940 Hill St., Houtzdale.

Q. How far is that from Clearfield?

A. About seventeen miles.

Q. In which direction — South — East?

A. Going West.

Q. Going West. Are you married?

A. Yes.

Q. Do you live with your wife?

A. Yes.

Q. And have you any children?

A. No.

Q. Are you employed?

A. No.

Q. Are you retired?

A. Yes.

[368] Q. Prior to your retirement for whom did you work?

A. I worked in Brooklyn, New York.

Q. Brooklyn, New York?

A. Yes.

Q. What did you do there?

A. I was a machinist.

Q. By whom were you employed?

A. A. Shaler & Son.

Q. What kind of machinist were you?

A. Mechanic machinist.

Q. You ran a machine—metal working machine?

A. Setting them up—setting the machines up.

Q. You were a set up man?

A. Yes, we set up machines.

Q. Generally, what kind of work did they do there?

A. Parts for cars—guages—pumps or other items like that.

Q. And how long were you employed there?

A. Fifteen years.

Q. Was your home in Brooklyn—were you born in Brooklyn?

A. No. I was born in Ireland.

Q. When did you come to the United States?

A. In 1925.

Q. After doing that, where did you live?

A. Do you mean when I came to the United States?

Q. Yes?

[369] A. I lived in 464 Hawthorne Street in Brooklyn.

Q. Mr. Yorke, how long have you lived at your present address?

A. About four years.

Q. Four years?

A. Yes.

Q. And prior to that you lived in Brooklyn?

A. Yes.

Q. Did you ever live in Clearfield County before four years ago?

A. No.

Q. Is your wife from Ireland also or was she from here?

A. She's from Madera.

Q. Did you meet her after you came to Clearfield County four years ago?

A. No. I met her in New York.

Q. And was she living in New York at that time?

A. Yes.

Q. But her home was here in Madera?

A. No she had a home in New York also. 821 Union Street.

Q. Is your wife employed any place outside the home?

A. Not now.

Q. Was she before?

A. Well when she was in Brooklyn she was employed.

Q. Was there any particular reason why you and your wife came back to Clearfield County to live that you know of?

A. She was from Madera and when I retired we moved here.

Q. It's a nice place to live?

[370] A. Yes.

Q. But not as nice as Ireland?

A. Yes, it's okay, but not with the tax so much.

Q. Did you ever visit Remolin Castle outside Shannon?

A. Never tell of that.

Q. Was that the part of Ireland you were from?

A. No, I was from the Western part.

Q. Out where the grass is real green?

A. No.

Q. All chalky isn't it?

A. Yes.

Q. Mr. Yorke, do you know of the matter involving Jon Yount?

A. No.

Q. Have you read anything about Mr. Yount?

A. No.

Q. You don't know anything about the reason why you're here—or why you were called to come here as a prospective juror?

A. No I don't know.

Q. Have you read anything in the newspaper about it?

A. No.

Q. Have you heard any discussions or heard any radio broadcasts about it?

A. No.

Q. Do you recall Mr. Yorke, just when it was four years ago that you came to Clearfield County—when did you move here, do you remember?

[371] A. It was in January, about '66.

Q. In January of 1966?

A. Yes, January 1966 I am pretty sure of that.

Q. And you don't recall any newspaper articles concerning the matter involving Mr. Yount?

A. No.

Q. Or any radio broadcasts?

A. No.

Q. Or television broadcasts?

A. No I never have seen that.

Q. Mr. Yorke, what do you do since you're retired—do you have any avocation?

A. I have no business of any kind. No work at all. I do not work any place.

Q. Have you any kind of hobbies?

A. No. The only thing I do is a little gardening.

Q. Gardening?

A. Yes. That's all I do.

Q. What do you do when the snow is on the ground?

A. I have to keep the driveway clear. That's about all.

Q. And on the days when we don't have snow, what do you do?

A. I do some hunting and things like that.

Q. Do you have friends with whom you hunt?

A. I have a brother-in-law in Madera. That's the only one I have around Madera.

[372] Q. Do you meet with him and talk with him very much?

A. Yes I do. We pal together and we go hunting together.

Q. Has he lived around Madera all his life, as far as you know?

A. As far as I know.

Q. What do you talk about with this brother-in-law?

A. Well, we have conversations here and there.

Q. About various news items?

A. Well, about home and so forth and how I like to live at Madera or Houtzdale and so forth.

Q. And do you discuss political matters that are involved around here?

A. Not on the political side anyways.

Q. How about various news items in the newspapers. Do you discuss those?

A. No. Newspapers I don't see very often. There's just the Progress and I don't have that.

Q. You don't have the Progress. What newspaper do you get?

A. I get it on Sunday—from the Pittsburgh Press.

Q. Is that the only paper you get at your home?

A. Yes.

Q. Do you have a television set?

A. Yes.

Q. And a radio?

A. Yes.

Q. When you received your notice to come and perhaps serve with us [373] and help us as a juror, did you discuss this with your brother-in-law?

A. No.

Q. You didn't see him since you got that notice?

A. No.

Q. Did you discuss it with your wife?

A. I told my wife, I said the notice to be on the jury was what it was.

Q. Did she tell you what case you might be asked to hear?

A. No.

Q. Did you have any idea or did you know what case you might be asked to hear?

A. No I didn't. No.

Q. While waiting around here the last several days have you read any newspapers?

A. No.

Q. Have you heard any discussions—

A. No I don't. I didn't hear any.

Q. By anybody—concerning Mr. Yount?

A. No.

Q. About anything?

A. Not about anything of that kind.

Q. Not anything of that kind. Is that what you said?

A. Not anything along the line you're speaking about.

Q. Mr. Yorke, is there any—do you have any condition of personal health or does your wife have a condition of personal health that would make it awkward or bad or difficult for you to be away from your wife and home for a prolonged period of time—perhaps two weeks?

[374] A. No. It wouldn't interrupt in any way.

Q. It wouldn't interrupt anything?

A. No.

Q. When did you first find out that one of the cases or the case you would be asked to hear would be the Yount case?

A. I don't know what case.

Q. You—what don't you know?

A. I don't know what case.

Q. You know now, don't you?

A. No I don't.

Q. Don't you know now?

A. No.

Q. You have no idea of what case you are going to be on right now?

A. No.

Q. No idea at all?

A. No.

Q. Suppose I ask you if you know anything about Mr. Yount. Do you—does that name mean anything to you?

A. No it don't mean nothing to me.

Q. You've never heard that name before?

A. No.

Q. Never at all?

A. No.

Q. Mr. Yorke, do you want to sit on a jury involving this case—do you want to be on the jury?

[375] A. Well that's if I qualify and if I don't, I don't want to.

Q. The answer to the question—

BY THE COURT:

I think he answered.

BY MR. KING:

Q. That's how we decide, by asking you these questions. I'm trying to find out by the last question. Do you have a feeling or reason that you want to be on the jury?

A. Well I don't mind being on the jury but if I can't qualify I wouldn't want to.

Q. I don't expect anybody to get mad—but do you have a reason for feeling why you would like to be on?

A. No, not no reason to want to be on the jury I have. No reason I have.

BY MR. KING:

Pass the juror at this time.

BY MR. REILLY:

Q. Mr. Yorke, are you acquainted with any of the attorneys for the defendant—Mr. Blakley, Mr. King or Mr. Sabino?

A. No I don't know them at all.

Q. None of them?

A. I don't know anybody in this room.

Q. Mr. Yorke, you stated you do not know the defendant, Jon Yount. Did you say that?

A. I do not know him.

[376] Q. Do you know any members of his family?

A. No.

BY MR. REILLY:

Pass the juror.

BY MR. KING:

Q. Mr. Yorke, do you have any opinion as to this case that we're talking about. Do you know what case we're talking about now?

A. Yes, it's a Mr. Yon you say.

Q. Jon E. Yount?

A. Yes, Jon Yount.

Q. Do you have any reason—strike that—do you have any opinion as to his guilt or innocence?

A. No I have no opinion?

Q. You have no opinion at all?

A. No.

BY MR. KING:

The defense accepts the juror.

BY MR. REILLY:

The Commonwealth accepts the juror.

BY THE COURT:

The Clerk of Courts will seat and swear in Mr. Yorke.

BY THE CLERK OF COURTS:

You do swear by Almighty God, that you will well and truly try and true deliverance make, between the Commonwealth of Pennsylvania versus Jon E.

Yount, Defendant, and a true verdict give according [377] to the evidence and that as you shall answer to God at the Great Day?

A. I do.

(Juror Seated—Juror Number 4.)

BY THE COURT:

Mr. Yorke, you are now a juror in this case. This is a capital case. It is a case where felonious homicide has been charged. The court wishes to advise and admonish you that you are not to discuss this case with anyone or allow anyone to discuss the case to you or refer to it in your presence without reporting such a matter to the Court. If any of this kind of thing happens you will kindly report it to the Court. You are to refrain from any discussion of the case with other jurors when on recess outside—but when in the jury room you are privileged to discuss this case. Now, members of the jury are not permitted however to discuss the case with anyone else nor allow anyone else to discuss it with them and that includes the tipstaves. However, if you have personal wants of any kind you will notify the tipstaves and they will take care of them. Now, they are not to deliver letters. You are not permitted to write to any one or call anyone. Of course, you won't have any telephone in your rooms because they are disconnected but we ask that you make no attempts to contact anyone at all. While you are in the course of this trial, if there be anything you need you will tell the tipstaves and I will determine whether it is proper to be obtained for you or not. Now, we know you need clothing and things so when you are taken into the jury room, there will be paper

and pen—make a list of the things [378] you desire and the tipstuffs will contact whomever you tell them to contact to obtain these things. That person or persons will also be told they are not to deliver any communications to you of any kind. You will not be allowed any newspapers, television, telephone or radio. But we will try to make it as comfortable for you as possible while you are there. There will be cards to play and that's about the sum and substance of it because we are not allowed to provide any reading material for you whatsoever. We ask you to be very patient and considerate of the situation and we know you will be. Remember, you will always take Seat Number 4 when reporting into the Jury Box in the Court Room where you are now seated. They are all numbered. The tipstaff will now conduct you to the jury room.

BY THE COURT:

You may proceed to call another juror.

* * *

[405]

* * *

MARY JANE WAPLE called by the Clerk.

BY THE CLERK:

Juror look upon defendant; defendant look upon juror.

You do swear by Almighty God, the searcher of all hearts that the answers you shall make to the questions asked you concerning your qualifications as a juror, shall be the truth, the whole truth, and nothing

but the truth, and as you shall answer to God at the Great Day?

A. I do.

BY MR. KING:

Q. Is it Mrs. Waple?

A. Yes sir.

Q. Where do you live?

A. Bigler, Pennsylvania.

Q. Where is Bigler, Pennsylvania?

A. It's approximately nine miles from here—between Clearfield and Philipsburg.

Q. And how long have you lived there?

A. Thirty years.

Q. Thirty years?

A. Yes sir.

[406] Q. Are you married?

A. Yes sir.

Q. And how long has your husband lived there?

A. Twenty-nine years.

Q. Twenty-nine years?

A. Yes sir.

Q. You've just recently been married?

A. No sir.

Q. How long have you been married?

A. Eleven and a half years, approximately.

Q. Do I understand you have lived there 30 years and your husband 29 years. Is that what you said?

A. Yes sir.

Q. Something strikes me as being inconsistent?

A. Well, we are both from there—we were both born and lived there but he is about a year younger than I am.

Q. Have you any children?

A. Yes sir.

Q. How many?

A. Two.

Q. What ages?

A. My daughter is 11 and my son is 4-1/2.

Q. Just you, your husband, and two children live at this address?

A. Yes. It's a double house and another lady lives in the other side of the house.

[407] Q. Is she related to you?

A. No sir.

Q. Are you employed outside the home?

A. Yes sir.

Q. What do you do?

A. I have the Mens Department at Ames Department Store.

Q. And what do you do there?

A. I take care of the Mens Department and run cash register.

Q. You are a sales person?

A. Yes sir.

Q. How long have you been doing that?

A. Just since September.

Q. Is your husband employed?

A. Yes sir.

Q. By whom?

A. Tafco. It's a Division of Titan Metal Corporation.

Q. Where is that place of employment?

A. Hyde City.

Q. Hyde City?

A. Yes.

Q. Where is that located?

A. Just on the other side of Clearfield, towards Curwensville.

Q. What is the nature of his work?

A. He's a—he puts the doors and insulation on coolers.

Q. It's a manufacturing plant?

[408] A. Yes.

Q. He works in the plant?

A. Yes sir.

Q. Putting things together?

A. Yes.

Q. How long has he been doing that?

A. Four years.

Q. As I understand you have been married about eleven and a half years you said?

A. Yes sir.

Q. And lived at the same place all that time?

A. No. When we were first married I lived with my parents while he was overseas and then we moved twice but we never moved out of Bigler.

Q. Is there any reason, personal reason, that you might have of health or home obligations that would make it difficult or impossible for you to be away from your work and home for a prolonged period of time?

A. No sir.

Q. Do you read the newspapers?

A. Not now.

Q. Not now?

A. No.

Q. Prior to being instructed by the Judge not to read any newspapers did you read newspapers?

A. Naturally.

[409] Q. And do you know the matter with which we are concerned—about Jon Yount—do you know of the matter?

A. Yes, but I don't know any details. I don't know anything about it.

Q. Just what you've read?

A. I didn't read it in the paper—just that it was coming up but I didn't know I would be involved.

Q. Do you recall reading in the newspapers about it a number of years ago?

A. Yes.

Q. When I talk about reading newspapers, I don't just mean yesterday or the day before, or today, but at any time?

A. Yes, but I'm not very good with dates—I don't remember.

Q. I'm not asking what you remember but the fact that you did read something about it?

A. Of course.

Q. And do you recall discussing it or hearing it discussed by other people over the years—back three or four years ago?

A. No—not until just recently.

Q. Not until just recently?

A. Yes.

Q. When you received your notice to come here as a prospective juror was the matter then discussed to a certain extent?

A. No—I didn't—I simply don't know. I have been working and didn't know what's been going on.

Q. None of the customers coming into the store about the time you [410] got your notice mentioned anything about it to you, or did you ever mention it to them?

A. It's a big store. Rarely anybody comes in that I know real well.

Q. Did you mention it to your husband?

A. Of course.

Q. And you and he discussed it to a certain extent?

A. He told me just this week maybe that's what it would be.

Q. Did he express to you any opinion he might have had on the matter?

A. He just didn't know what he'd do without me, that's all.

Q. That's very understandable. Did he express any opinion concerning Mr. Yount? That you can recall? Without telling me what it is?

A. No. It simply wasn't discussed. I just thought — I just didn't think I would be here, that's all.

Q. Even after you got your notice you didn't think you'd be here?

A. I didn't know until this week that the case was coming up.

Q. When you found out it was coming up, you remembered things you had heard about it in the past. Is that what you mean?

A. Yes.

Q. And can you recall having any kind of opinion about the case or about Mr. Yount concerning his guilt or innocence—did you have a feeling about it?

A. Well, I had remembered that they said he was guilty before and I didn't understand why they were having another trial.

[411] Q. Having remembered that, did you have an opinion as to whether he was or was not guilty without telling me what your opinion was?

A. Just a lot of wondering about it. I don't know him or anything about him.

Q. Did you tell me you did read the newspapers prior to coming to Court in which the newspapers contained matters about the matter?

A. No I didn't.

Q. Did someone read the newspapers to you?

A. No sir. I told you someone had told me it had been in the paper.

Q. And the person who told you—was it your husband?

A. No. It was my mother.

Q. Your mother?

A. Yes.

Q. Did your mother express any opinion to you that she might have about the matter?

A. No.

Q. Do you talk to your mother very often?

A. Quite often.

Q. Is your mother familiar with the matter concerning Mr. Yount?

A. I don't know—I had to ask her—I told her I may be having jury duty and would she stay with my children at this time—it was just—Tuesday, and I asked her if she would stay with my children. Prior to that I thought my children would be staying with my husband.

Q. Your husband works every day, does he not?

A. Yes.

[412] Q. Your husband would not be able to stay at home with the children, would he?

A. No. My father comes in while I'm at work.

Q. Do you Mrs. Waple, presently at this time, have an opinion about Mr. Yount's guilt or innocence?

A. No.

Q. You don't have any opinion at all?

A. I don't know anything about the man or about this case, only what I have read years ago and I hardly remember that.

Q. Well you do remember something based upon what you read and heard several years ago—is that true?

A. Yes.

Q. Does that cause you to have an opinion at this time about him—without telling what your opinion is?

BY MR. REILLY:

Your Honor, she's already answered.

BY THE COURT:

You may answer again.

A. I don't have an opinion.

BY MR. KING:

Q. You don't have any opinion?

A. No. I just don't know.

Q. You don't know what?

A. I don't know if he's innocent or guilty.

Q. I'm not asking you that.

A. I don't have an opinion. I'm not judging him.

[413] Q. Would you be able to put out of your mind anything you have thought or read or anything you have heard about him before entering the jury box — would you be able to erase it from your mind?

BY THE COURT:

I don't believe the law requires you to do that — as long as she doesn't have an opinion.

A. I think I could I could certainly try. I think in a matter like this, all you can do is to ask for God's guidance.

Q. Would you look to God for some information or guidance as to how you should render a decision in this case if you were selected as a juror?

A. What I meant was I hope that I would be attentive and have the common sense to search my heart and mind and make an honest decision.

Q. Would you look to the Lord for Guidance in making that decision?

A. Yes.

Q. You would?

A. Yes.

Q. Would you look to the Lord for guidance along these lines in deference to instructions from the Court as to how you should view or look at the evidence and facts as developed in the evidence?

A. I don't understand the words "in deference".

Q. I'll change it to preference. Would you look to the Lord for guidance rather than the instructions from the Court?

A. No.

Q. Mrs. Waple, has this matter we're talking about been the subject [414] of any discussions at your work that you've heard?

A. Not that I recall.

Q. Do you know—has your husband told you whether or not it has been a matter of discussion at his work?

A. No. We were more concerned with what to do with the children and how the house would be taken care of in case I wasn't there.

Q. Then you anticipated you might be a juror in this case. Isn't that correct?

A. Not in this case. All I know is sometimes that lock people up on a jury and neither one of us know very much about the law.

Q. You considered the possibility then, that you might be selected as a juror and you would be locked up, so to speak, and not be home for a while?

A. Yes.

Q. Did you want to be on this jury?

A. Not really.

Q. Do you know of any—the fact that you don't want to be on the jury, would this affect your ability to follow instructions from the Court and to decide whatever you would be asked to decide?

A. No. I would just rather not.

Q. You'd rather not be on the jury?

A. Right.

Q. Is this because of your reasons that exist at your home or just your general feeling?

A. Just a general feeling.

[415] BY MR. KING:

Pass the juror.

BY MR. REILLY:

Q. I think you were probably asked this, but do you know or are you acquainted with the defendant, Jon Yount?

A. No.

Q. Or any members of his family?

A. No.

Q. Do you know any of the attorneys representing Mr. Yount here—David Blakley, Mr. Homer King, or Mr. Frank Sabino?

A. No.

Q. And, therefore, I assume you never used their services in any legal matter?

A. I have never been involved in any legal matter.

BY MR. REILLY:

Pass the juror.

BY MR. KING:

Q. I assume Mrs. Waple, you do not know Mr. Reilly or Mr. Fennell?

A. No I don't.

Q. Are you acquainted with any members of the local or State Police?

A. No.

Q. No members of your family are parts of those organizations?

A. No sir.

Q. Are you acquainted with the family by the name of Rimer around Luthersburg?

A. No sir.

[416] Q. Did you ever hear of them?

A. Isn't that the other party involved?

Q. Yes?

A. Only through the newspapers.

Q. Only what you've read?

A. Yes.

BY MR. KING:

Defense accepts the juror.

BY MR. REILLY:

Commonwealth accepts the juror.

BY THE COURT:

Mr. Hill, you will kindly swear and seat the juror.

BY MR. HILL:

You do swear by Almighty God, that you will well and truly try and true deliverance make, between The Commonwealth of Pennsylvania versus Jon E. Yount, defendant, and a true verdict give according to the evidence and that as you shall answer to God at the Great Day?

A. Yes.

BY MR. HILL:

Please be seated.

BY THE COURT:

Mrs. Waple, you have now been seated, of course, and sworn as a juror in the case of Commonwealth versus Jon E. Yount which is a homicide case and we would ask that you not discuss this case with anyone nor allow anyone to discuss it with you. [417] Also, that you not attempt to make any contacts with anyone because you will be sequestered with other jurors now and you are not permitted any contacts with anyone else. However, your personal wants will be taken care of. For instance, and I know you will want certain clothes and other personal needs. If you

will make out a list in the jury room the Tipstaves will see to it that those are brought to you. Please do not, again, make any contacts with anyone. Also again, do not allow anyone to talk to you or you are not to talk to anyone else or to say anything about this case within the hearing of others. If these things come to your attention, as I said before, you are to report them to the Court. While sequestered in the deliberation room you are permitted among yourselves to discuss this case, but not allowed to talk to anyone else. Now we ask that you keep these rules so that we won't have any problem and I am sure you will. So the tipstaves will now take you to the jury room and you will then make out your list. Alright. Mrs. Waple conducted to Jury Room by Matron.

BY MR. SABINO:

Mrs. Waple is crying Your Honor.

* * *

[437]

* * *

JAMES F. HRIN called by the Clerk.

BY THE CLERK:

Juror look upon defendant; defendant look upon juror.

You do swear by Almighty God, the searcher of all hearts, that the [438] answers you shall make to the questions asked you concerning your qualifications as a juror, shall be the truth, the whole truth, and nothing but the truth, and as you shall answer to God at the Great Day?

A. I do.

BY MR. FENNELL:

Q. Where do you live?

A. My address is 127 Hill Street, DuBois, Pennsylvania.

Q. How long have you lived there?

A. A full resident — all my life, 39 years.

Q. Are you married?

A. Yes.

Q. Do you have any children?

A. Yes.

Q. What are their ages and sex?

Q. Three boys — two girls.

Q. Do you remember their ages?

A. The boys — 3 — 3, 6, 9, 11 and 12.

Q. What is your occupation?

A. Chemist.

Q. By whom are you employed?

A. Rockwell Manufacturing.

Q. In DuBois?

A. In DuBois.

Q. How long have you been so employed?

A. With Rockwell?

Q. Yes?

[439] A. Thirteen years.

Q. Are you acquainted with Jon E. Yount, the defendant in this case?

A. Do you mean do I know him?

Q. Do you know him personally?

A. No I do not.

Q. Do you know any members of the Jon Yount family?

A. I have met Mrs. Yount.

Q. His wife or his mother?

A. His mother.

Q. Have you ever met his wife?

A. I have not.

Q. How well do you know his mother, Mrs. Yount?

A. I'm involved as Precinct Chairman and Mrs. Yount is Precinct Chairman at Sebula I think. I have met her possibly in the last two years—I have met her at the different meetings.

Q. Have you ever had occasion to discuss Jon E. Yount with his mother?

A. No I have not.

Q. Have you ever had any discussions with her at all except relating to politics?

A. No. None whatsoever.

Q. Have you ever met Pamela Sue Rimer?

A. No.

Q. Did you ever meet any members of the Pamela Sue Rimer family?

A. No.

[440] Q. Have you formed any opinion as to the guilt or innocence of Mr. Yount?

A. To the degree that it was written up in the papers, yes.

Q. Is this a fixed opinion on your part?

A. This is sort of difficult to answer. Fixed?

Q. Let me ask—if you were to be selected as a juror in this case and take the jury box, could you erase or remove the opinion you now hold and render a verdict based solely on the evidence and law produced at this trial?

A. It is very possible. I wouldn't say for sure.

Q. Do you think you could?

A. I think I possibly could.

Q. Then the opinion you hold is not necessarily a fixed and immobile opinion?

A. I would say not, because I work at a job where I have to change my mind constantly.

Q. Would you be able to change your mind regarding your opinion before becoming a juror in this case. That's the way I must have you answer the question.

Q. If the facts were so presented I definitely could change my mind.

Q. Would you say you could enter the jury box presuming him to be innocent?

A. It would be rather difficult for me to answer.

Q. Can you enter the jury box with an open mind prepared to find your verdict on the evidence as presented at trial and the law [441] presented by the Judge?

A. That I could do.

BY MR. KING:

Q. Mr. Hrin, is there any reason of health of yourself or wife or family or any business reason that you have that would be detrimentally effected—or your family—that would cause you concern if you were away from your home or family for a prolonged period of time?

A. I have 5 kids. That should answer.

Q. You think that would be detrimental?

A. They might have a good time without their Dad.

Q. I don't agree. Maybe they would like to have you around. The question is Mr. Hrin, would it work a hardship on you or on your wife if you were not at home for a drawn out period of time—perhaps several weeks?

A. I don't know what she would have to say. I don't imagine she would like it, if that's what you mean.

Q. I was trying to find out if it would work a great hardship and I imagine you would have some concern which you do—would this concern be such as to effect your judgment or effect your decision, or—

decision you might be called upon to make during the course of trial?

A. No—I would say—if you approached it with that in mind—definitely not.

Q. Did I understand Mr. Hrin you would require some—you would [442] require evidence or something before you could change your opinion you now have?

A. Definitely. If the facts show a difference from what I had originally— had been led to believe, I would definitely change my mind.

Q. But until you're shown those facts, you would not change your mind—is that your position?

A. Well—I have nothing else to go on.

Q. I understand. Then the answer is yes—you would not change your mind until you were presented facts?

A. Right, but I would enter it with an open mind.

Q. In other words, you're saying that while facts were presented you would keep an open mind and after that you would feel free to change your mind?

A. Definitely.

Q. But you would not change your mind until the facts were presented?

A. Right.

Q. And the opinion you have you would keep until the facts were presented—is that correct?

A. Since there's nothing else in my mind except what I originally read, right. The fact that there has been a new trial re-scheduled may cause some doubt as to the original facts.

Q. But it hasn't changed your opinion?

A. Well the opinion isn't as solid as it originally was.

Q. But it still is solid—not as solid—but solid?

A. Right.

[443] Q. Spoken like a true engineer.

A. Not an engineer—I'm a chemist.

BY MR. KING:

We would challenge for cause.

BY MR. FENNELL:

We would answer the challenge before the Court's ruling. He has already declared he could decide the verdict solely upon the evidence and law presented and he definitely said he could.

BY MR. SABINO:

Your Honor, I think we went through this matter yesterday.

BY THE COURT:

I don't think his answer is that he could not enter the jury box with an open mind. He said he could go in with an open mind and therefore I deny the challenge for cause. I deny the challenge for cause because he declared he could go in there with an open mind; and Commonwealth against

Bentley sets forth that—any juror is incompetent who has a fixed and definite opinion which cannot be erased by hearing the evidence—and he said he could disregard it and be guided by the law and evidence, and I believe he stated he could go in with an open mind. I would accept that as being sufficient to overcome the conviction that you proposed that he has a fixed opinion that he could not put aside and I think his answers were unequivocal enough as to any fixation as to opinion as he declared although he had a solid opinion it is not quite as solid as it used to be which indicates that it is not solid. [444] His expression is such that there is not now a fixed opinion and therefore I so accept it. Alright.

BY MR. KING:

If it please the Court I believe I was interrogating the juror.

BY THE COURT:

Go ahead.

BY MR. KING:

Q. To clarify something Mr. Hrin, I thought I understood, but in the light of the Court's observations, I'm not sure that I now understood what you said. I understand what the Court just said but I am not sure I understand what you said before. Did you not say that you had an opinion but that it was not quite as solid as it was before?

A. Yes.

Q. But you would still require evidence to be presented before you could in fact change your opinion—is that what you said?

A. The fact that the trial has been reopened indicates that there may be something left unopened. I said my opinion is not as solid and possibly I could enter the box with an open mind. I think I do this every day. You try out processes that you're sure are going to work and you definitely change your mind. I don't know if that's the answer you want.

Q. Regardless whether it's the answer we want, we are just trying to get an answer too so we can judge you and decide upon you.

A. It's rather difficult to live in DuBois and get the paper and find out what the people are talking about—at least the local [445] people without having some opinion or at least reserving some opinion.

Q. That's very true. And you do have and have had an opinion?

A. I had an opinion, right.

Q. The question now is then Mr. Hrin, is whether or not you can set that opinion aside before hearing any of the facts or evidence—set it aside before you enter the jury box; not after, but before. Can you do that?

A. The opinion isn't as solid—to completely wipe—or forget what I had heard previously about the case—

Q. You still remember that?

A. I remember reports about it or talking about it—to be honest with you I didn't really read all the articles in the paper because I know they were possibly played up a little. I didn't particularly like the man that wrote the article so I didn't take too much time. Everybody is entitled to their own views on personalities, but when I started to read it, it sounded like a fiction story and I don't care to read fiction.

Q. Mr. Hrin, I have to come back to the question that—can you put aside whatever opinion you had—solid, unsolid or however you want to describe it—can you set it aside before you go into the jury box or would you need some evidence before you could change your mind? Now think about it for a second.

A. I have to.

Q. Give me yes or no?

A. I think I could enter it with a very open mind. I think I could [446] very easily. To say this is a requirement for some of the things you have to do every day.

Q. Then let me ask you one more question Mr. Hrin—we have asked you a number of questions and we try to find things here, but do you know of any reason that I may not have touched upon why you should not be a juror in this case?

A. Outside of the fact that you'd be locked up for three weeks which wouldn't be a very pleasant experience.

Q. Does the thought of that effect you in such a way that you feel you could not be a juror?

A. I told you earlier, this wouldn't enter into my decision or my making the decision.

Q. Do you know Mr. Reilly or Mr. Fennell on my left over there?

A. I have seen Mr. Fennell in DuBois being a local resident. I don't know him personally. I didn't know that was Mr. Reilly.

Q. Do you belong to the same clubs or groups, or organizations that Mr. Fennell belongs to?

A. I said I don't know him—I guess I don't.

Q. You said you saw him?

A. I seen him on the streets. I may have grown up at the same time, but I think we went to different high schools.

Q. You have never had any discussion with him or he has never served as counsel for you?

A. Definitely not.

Q. Do you know Mr. Blakley?

A. Not personally.

[447] Q. Have you any friends or acquaintances among the local or State Police?

A. Would you repeat that?

Q. Do you know any State Policemen?

A. Oh sure.

Q. Can you tell me who you know?

A. Ken Bundy.

Q. Do you know Mr. Ellenberger?

A. Yes.

Q. How do you happen to know him?

A. The Elks sponsors Youth Day—in the community the students take over government. The Mayor, the Councilmen—all the City offices, including the Patrolmen and we have gone out in the past 12 or 13 years to include the State Police. The students go along with the State Police to find out what their duties are for the day and this is mostly the way I got to meet some of the State Policemen.

Q. Over what period of time has this association with the Police existed?

A. They have been replacing them for about—the project has been continuing—a continuing project for about 13—14 years—about 14 years—they keep changing them. That's how I got to meet them.

Q. Do you see these Policemen on fairly frequent occasions?

A. Definitely not.

Q. About how often?

[448] A. Once a year when you go out to make arrangements and when the day is—that's it.

Q. When is the last time you saw or spoke with Mr. Ellenberger?

A. Quite a while—he hasn't been around for a while.

Q. A couple years?

A. I would say so.

Q. Since 1966?

A. I think he was there in '66—I'm not real sure.

Q. He was there in '66?

A. I think he was—I'm not real sure.

Q. Do you recall talking with him back around '66?

A. To pinpoint it to a date, I can't.

Q. Just generally—do you have a recollection of being with him or discussing things with him?

A. Yes. I said it would be over what would happen on that day and that's the only thing.

Q. Any other policemen you know—except Mr. Bundy and Mr. Ellenberger?

A. By name I couldn't—well, let's see, Sgt. Shaginaw—I think he's passed away—by name I don't know.

Q. Do you know Mr. Bundy very well?

A. To see him—to speak to him.

Q. Where did you speak with him yesterday?

A. Probably at the bottom of the steps—to talk about whether it was snowing outside or not—yes, that was yesterday.

Q. Can you tell us when the time before that was that you saw him?

[449] A. Probably the day before that.

Q. The same place?

A. Yes, or the Elks when they went through for lunch.

Q. Did Mr. Bundy ever discuss with you the Yount matter or did you ever discuss it with him or hear him discuss it with anyone else?

A. No.

Q. Would the fact that Mr. Bundy might be a witness for the prosecution in this matter effect your judgment or effect your decision in any way?

A. Not any more than you. He has a job to do like anybody else.

BY MR. KING:

Pass the juror.

BY MR. FENNELL:

Q. Mr. Hrin, one further question. You have stated earlier you were acquainted with Mrs. Yount, the mother of Jon Yount?

A. Yes.

Q. Would your association with her effect in any way the verdict which you might render if sitting as a juror in this case?

A. No. I don't know her too well. I met her at these political meetings. I think she's a very nice person and that's the extent of it.

BY MR. FENNELL:

Commonwealth will accept this juror.

BY MR. KING:

Defendant will accept the juror.

BY THE COURT:

Very well, Mr. Hrin, will you please be seated and the Clerk [450] will swear you as Juror Number 6.

BY THE CLERK:

You do swear by Almighty God that you will well and truly try and true deliverance make, between the Commonwealth of Pennsylvania versus Jon E. Yount, defendant, and a true verdict give according to the evidence and that as you shall answer to God at the Great Day?

A. Yes.

BY THE COURT:

May I have all of counsel at the bench?

(All counsel approach bench)

BY THE COURT:

Mr. Hrin, you have now been seated and sworn as Juror Number 6 in the trial of this cause. I would ask that you not discuss this case with anyone nor allow anyone to discuss it with you or within your hearing while on any recesses or at any time. Also, if these things come up, please bring them to the attention of the Court.

Jurors are permitted to talk about the case within the jury room but you see, you will be on recesses coming back and forth to the jury room, and to the bus and be taken to the quarters and things like that, so please refrain from any reference to the case so that there won't be any possibility of there being any error made in this keeping or not keeping the rule which I

have now given you. These matters will be given to you by reminders again.

Now, we ask too that you not attempt to contact anyone nor allow anyone to contact you during this period because that is also [451] forbidden. However, you are permitted, when you get to the jury room, to make up a list of those things you want, and the Tipstaves will see that they are brought to you while you are serving with us. You will be completely sequestered during the course of this trial. So we would ask, therefore, that you abide by these rules. We ask your patience and consideration and we are sure you will comply.

BY MR. HRIN:

Is it possible to get my automobile home?

BY THE COURT:

A. Yes and you will make those arrangements with the Tipstaves. Remember, Tipstaves can't discuss the case, but things of that nature can be conveyed to them and they will convey the messages to the Court. But the case itself cannot be discussed or even referred to in talking to them. They are not better off or have no more authority than any ordinary person, and their job is to see to your personal matters. But you cannot talk on a telephone, listen to a radio or television. Those are all cut out in your rooms and you are not allowed to use any of them. You dare not communicate with anyone except the Tipstaves and the Judge if it becomes necessary.

(Juror conducted to Jury Room by Tipstaff)

BY THE COURT:

We will now recess for ten minutes.

3:58 p.m. Court recessed.

4:08 p.m. court reconvened. Defendant present in Court.

* * *

[559]

MARTIN R. KARETSKI called by Clerk.

BY THE CLERK:

Juror look upon defendant; defendant look upon juror.

You do swear by Almighty God, the searcher of all hearts, that the answers you shall make to the questions asked you concerning your qualifications as a juror, shall be the truth, the whole truth, and nothing but the truth, and as you shall answer to God at the Great Day?

A. I do.

BY MR. KING:

Q. Where do you live?

A. DuBois.

Q. Whereabouts?

A. 102-1/2 South Jared Street.

Q. Are you married?

A. Yes sir.

Q. And live with your wife?

A. Yes sir.

[560] Q. Children?

A. Four.

Q. Their ages?

8. A. I have a girl 14; girl 13; boy 11; and, a girl

Q. And are you employed sir?

A. Yes sir.

Q. By whom?

A. B & O Railroad.

Q. What do you do for them?

A. Welder. My official title is Carman but I weld for the railroad.

Q. Where do you do that?

A. The car shop in DuBois.

Q. How long have you worked for them?

A. Since 1950.

Q. Prior to that for whom did you work?

A. Well, I graduated in 1949 from high school
—I just loafed around that year.

Q. Mr. Karetski, is your wife employed outside the home?

A. No sir.

Q. Mr. Karetski, you read the newspapers?

A. I would say every day.

Q. And you listen to the radio and watch television?

A. Before I go to work I listen to the radio and at night I watch TV.

Q. Are you aware of the matter concerning Mr. Yount?

A. Yes I know what it's about.

Q. Not personal knowledge, but you have read about it?

[561] A. Just what I have read.

Q. You have heard the matter discussed over the years?

A. In the past few years I haven't heard too much about it.

Q. In 1966 when the matter came up before you knew about it then?

A. Yes sir.

Q. And just recently when this matter was coming up again, I presume?

A. What I have read in the paper again.

Q. And you have heard other people discuss it?

A. Not too many so far.

Q. You have heard other people express opinions about it?

A. Not too many of those so far too.

Q. Back around '66, did you?

A. Yes in '66.

Q. From what you read and what you have heard have you ever expressed an opinion about Mr. Yount?

A. Maybe if I was in a bar drinking; I never gave it any serious thought.

Q. There's no reason to any more than anybody else but you have heard opinions. I assume you had an opinion as to his guilt or innocence?

A. I had an opinion yes.

Q. Do you have an opinion today as to his guilt or innocence?

A. It's been a long time ago and I'm not too sure now. It was in the paper he plead not guilty.

Q. What you just read the other day—

A. I think about Tuesday or Wednesday's paper.

Q. So based upon what you read about it a long time ago as well as [562] what you read about it within the last few days, do you have an opinion as to his guilt or innocence?

A. Honestly, I couldn't say now.

Q. Are you saying you don't have an opinion or don't know if you have an opinion?

A. I probably don't know if I have an opinion.

Q. Let me ask you this then. In case you do have an opinion, could you wipe it out of your mind—erase it out of your mind before you would take a seat in the jury box and hear whatever evidence you might hear?

A. As it is right now I have no opinion now—four or five years ago I probably did but right now I don't.

Q. You think you had an opinion then?

A. Probably, like if I was in a bar room drinking, I might have said something then.

Q. And after what you read within the last few days, did this cause you to remember things you had read or heard, say back in 1966?

A. It caused me to think about them but I couldn't recall them exactly.

Q. I'm not asking you Mr. Karetski, to remember what you thought about then, but your general opinion. Don't tell me what it was—but the fact that you had an opinion then?

A. I probably had an opinion then, yes.

Q. Now, has anything happened to change your opinion from what it was then, to what you have today?

A. Not that I could really say, no.

[563] Q. Then I suppose you would say today you do have an opinion as of now as to his guilt or innocence?

A. As of now I don't have—as of now I don't but then I did have an opinion.

Q. What happened Mr. Karetski, between then and now to eliminate that opinion if you can tell me?

A. Well, as far as I'm concerned there wasn't much in the paper about it and it sort of slipped away from thought.

Q. When you think about what you learned about it then, can you now say you have absolutely no opinion at all?

A. I have my doubts whether I have an opinion right now or not.

Q. We have to know, Mr. Karetski, whether you do or you don't. We only know by asking you?

A. That makes me think a little bit then. How about a possibility of an opinion? I mean I'm not too sure.

Q. No, I'm sorry. You have to make up your mind whether you do or not.

BY THE COURT:

If that's his final answer—he doesn't have to change it.

BY MR. KING:

We are just asking him what it is.

Q. We cannot help you to make up your mind. You have to tell us?

A. Yes.

Q. That's all I'm saying to you.

A. Honestly right now I can't say if I have an opinion or not [564] because it's been so long ago since the last case. I probably had an opinion then but I don't now. That's all I can say.

Q. Mr. Karetski, is there anything in your relationship with your job that would make it difficult or impossible for you to be away from your employment

for a prolonged period of time—several weeks say—if you were to be a juror here?

A. No sir. I don't think so.

Q. Do you have any situation at home that would work a hardship on your wife and children?

A. The only thing—it might work a hardship there. I was talking to the Chief Clerk at the shop yesterday. I was selling poppies last night and I—he happened to stop in the store where I was and I asked him if he turned a time card in for every day I work—so he says—you're not making any time or pay till this is completely over. When you bring that slip back you will then receive your money. So the only thing there is I have a pay coming yet two weeks from yesterday and then there won't be anything coming in.

Q. Would this work a hardship on you or your wife or family?

A. I don't know about me but it probably would work a hardship on my wife with no money coming in.

Q. Would this hardship be such that you would worry about it?

A. I don't know. She does a fairly good job of taking care of the house—running things.

Q. Would you be concerned about it?

A. At times I might be.

[565] Q. Would this affect your ability to follow the evidence and testimony that might be presented to you—do you think it would affect your judgment in some respects?

A. I sort of doubt that because a long time ago I used to see different fellows with gray hair and ulcers that's younger—I said that comes from worry. I said, don't worry. Things will work out eventually. I said look at me, ten or fifteen years older than you and no gray hair, no ulcers. I just sort of let things slide by.

Q. Besides working as a car repairman, what else do you do?

A. To get wages?

Q. No—do you have another job?

A. I have a job in our local Union. I'm Treasurer of our Local Union. And in the VFW in DuBois I'm Post Commander.

Q. We had another gentleman I believe, a steward. Do you know him. I'm sorry, that was from the Legion. As Commander of the Post do you come into contact with a number of people?

A. At the Post meetings we usually have just small turnouts but at the District meetings I come in contact with people and banquets, conventions and things like that.

Q. How long have you been Commander?

A. I went into office this past July.

Q. Prior to being Commander, did you hold other offices with the organization?

A. Yes.

Q. What?

A. Chaplain and Guard both. Chaplain one year. Guard the following year.

[566] Q. How long have you been a member of the Post itself?

A. I think I got active again in '66 or '67.

Q. Was one of the places you heard the Yount matter discussed in the past the Legion?

A. I don't belong to the Legion.

Q. VFW, I'm sorry.

A. In the VFW, no sir.

Q. At the place where you're the Post Commander.

A. That's the VFW.

Q. In addition to that office that you hold, do you belong to any other clubs?

A. Polish Citizens Club, Polish Am-Vets Club and the Lithuanian Club.

Q. Do you hold any offices in those?

A. None in those three.

Q. Just a social member?

A. Just a member, no offices.

Q. You just visit there for the purpose of socializing?

A. Yes sir.

Q. And in addition to those associations have you any other—what else do you do?

A. I don't believe there's anything else. Try to bring good cheer I guess.

Q. Do you hunt or fish?

A. No, I gave up hunting the year after I got out of Service.

Q. In what branch of the Service were you?

A. Army.

[567] Q. In what years?

A. 1950 to 1952.

Q. Were you in Korea?

A. No sir. I served in Germany during the Korean conflict.

Q. Do you have any desire to be on this jury?

A. I just started giving it thought recently. I thought it wouldn't be a bad idea for experience. I have never been on a jury before. I'd like to know what it's like to be a juror. I have learned what it's like to be coming here the last three days.

Q. Do you mean because of the unpadded seats out there?

A. Yes sir—those are padded but I don't know if they are much more comfortable.

Q. I take it then sir, that you would like to be a juror?

A. The way I've been thinking lately, yes, I'd like to be a juror.

Q. And your reason for wanting to do this is just as a matter of experience. Is that just the idea?

A. Yes, I guess that's what it comes down to, yes, because I have never been a juror. Some people have been on smaller cases but we've never talked about it.

Q. Have you ever flown an airplane?

A. Myself?

Q. Yes?

A. No sir, but I have flown in them.

Q. Now that you've had a little bit of experience of what may be involved in the waiting you've done and in light of what I've said to you that you might be here for a while and the thoughts that you have [568] had regarding hardships to your family due to your being away from your work and your family, do you still think the experience of serving as a juror—do you still think you would like to have that experience notwithstanding these other considerations?

A. I still think—this is the first time I've ever been called. I had no idea what went on. I still would like to be a juror someday, somehow. I would like to be on some kind of a jury.

Q. Maybe you can. When you go to learn to swim you don't go out to the ocean and jump off?

A. Not me. I swim like a rock.

Q. Do you know sir, of anything in your experience and background that would be any reason why perhaps you should not be a juror on this case?

A. You mean pertaining to Mr. Yount or pertaining to me?

Q. To Mr. Yount or anything pertaining to you. I have touched on a number of subjects here trying to give you food for thought so you could weigh and consider all these things to find out how you feel. Maybe I've missed something?

A. When I was younger I always thought that somebody that ever got in trouble couldn't be called for jury duty. I was in one or two scrapes while I was a juvenile and when I was overseas while in the Service. I sort of borrowed another fellows pass and went out that night. That didn't set too well.

Q. Well, that's a thing any normal, red blooded American might do. I don't see anything wrong with that.

A. They restricted the one-half of the outfit and my buddy didn't [569] want to go so I said I'll sneak out on his pass.

Q. What's in a name, right?

A. I got caught.

Q. The fact that his name was on that paper didn't bother you particularly, did it?

A. What really hurt was he was Corporal and the MP asked me where my stripe was and I didn't have any and he took me back to Camp.

Q. Do you have any friends or acquaintances among the police force, either local or State Police?

A. I know most of the—I'd say probably four or five policemen in DuBois. I know them fairly well but we don't associate. They're on one side and I'm the other. They have their job to do and I stay out of their way. I know the Chief and some of the older police there but you don't pal around with them or rove around with them. It seems they're a different class altogether.

Q. A different breed of cats?

A. That's even better yes.

Q. And how about with any members of the State Police force. Have you any association with them at all?

A. I know a few to see them. At times when I went out to the farmers to get milk I would stop at Twin Oaks—there might be one in there and I would talk but that's all.

Q. You've never attended any of the clubs, the social clubs with them?

A. With them, no, but I was at the Lions Club here in October and I think the Master of Ceremonies was a State Policeman, Corporal Ellenberger or Sergeant Ellenberger.

[570] BY THE COURT:

It's Lieutenant.

A. I didn't know. The last I knew it was Sergeant. I don't know him personally but I did meet him that night at the banquet.

Q. About how long ago was that?

A. This past October, 5th or 6th—something like that.

Q. Just last month?

A. Last month, yes sir.

Q. At that time had you received a notice for Jury?

A. No sir.

Q. He did not discuss anything about the Yount matter?

A. The only thing he said—he introduced himself and I did too—and he said, you'll probably be sitting at the head table. It turned out I didn't sit at the head table, and those were about the only words we had. I thought I was supposed to sit there but I wasn't.

Q. Since you occupy at the Post a position of relative leadership, do you think that you would be aware of the feelings that some of your Post members and other officers might have, when they might eventually be called upon to vote for you in a subsequent election. Do you think you might be tempted to think about how they might think of you because of the way you might decide in this matter?

A. I don't know how to decide. As I say, I have no opinion but after this year, I'm done I hope—I'm through holding an office. I'll assist other officers.

Q. Would you be subject to any kind of criticism or say disaffection?

[571] A. I don't think so. It would probably be like now. Some fellows like me—some fellows don't. It would probably continue the same way.

Q. Do you read any stories about Court proceedings and Court trials?

A. Not about Court trials. I do read detective magazines. I read *Inside Detective* and *Front Page Detective*.

Q. Do you remember reading any stories of Mr. Yount's matter in one of those magazines?

A. If it was in one—it wasn't in neither one and I buy them almost every month. I could have missed it but—

Q. Back around '66 or '67?

A. Like I said, those are the only two detective magazines I buy and there was no story about him in either one of those.

Q. Did you once think of being a detective or policeman?

A. No. I like detective stories. I don't know why. Some are happy stories; some are sad stories but—

Q. Do you watch television stories about—

A. Cowboys.

Q. Do you watch Perry Mason?

A. I used to watch Perry Mason. I was going to have him as my attorney if I had any trouble with my wife because he never loses a case. She says we won't have any trouble.

Q. Who was she going to get?

A. She had first call on him.

Q. In the detective magazines that you read do you find a preponderance of cases where the detective is always triumphant like Perry Mason?

A. In the two ones I read, every once in a while they are followed [572] up. I don't know if the cases are re-opened or not, but the reporter doesn't believe the person is innocent and he follows it through and it proves the detective was wrong.

Q. So you don't exactly have a detective syndrome as to the fact that detectives are always right?

A. I guess that's what it would lead up to.

Q. Do you know Mr. Reilly, the District Attorney?

A. I have seen him these past three days coming to or back from the Diner over here but I don't know him personally.

Q. And there was a Mr. Blakley who is not here now. Are you acquainted with him? He's a lawyer?

A. Maybe through the family—through my Mother. I think my Mother—I couldn't say I know Mr. Blakley either.

BY MR. KING:

Pass the juror.

BY MR. REILLY:

Q. Mr. Karetski, do you know or are you acquainted with the defendant Yount?

A. I seen the defendant once or twice. That was maybe '63, '64, '65 playing softball.

Q. Did you ever meet him?

A. No sir, not that I know of.

Q. Did you ever play softball with him or against him?

A. What I did, I usually—I kept score for the Pulaski Ball Team.

Q. Did he play for the Pulaski softball team?

A. No sir. He played, I believe, for Shaffer Siding.

[573] Q. Did you ever talk with him or anything like that?

A. No.

Q. Do you know or are you acquainted with any members of his family?

A. No sir.

Q. This Mr. Blakley they spoke of is David Blakley from DuBois. You don't know him?

A. Not that I can recall.

Q. Then I assume he's never represented you?

A. No.

Q. Do you know Mr. King or Mr. Sabino other than as having seen them this week?

A. The first time I found out who Mr. King was I believe yesterday and somebody said King—he was coming up the stairs—somebody said it was the man with the hair.

BY MR. REILLY:

Pass the juror.

BY MR. KING:

Q. Do you know the name Rimer?

A. Before I heard—before it was in the paper. The only Rimer I knew was down by Grampian—down by Clarion. Our team had a playoff game down there—that was in Rimersburg.

BY MR. KING:

Q. That's in Clarion County?

A. Yes.

Q. Then you saw the name Rimer in the paper in connection with Mr. Yount, is that right?

[574] A. Well, that's the only time. I don't know of the Rimer family.

Q. Are you acquainted with police officers other than the ones we talked about here?

A. Probably in the VFW travels I probably came across some and also during hunting season. They stay at the Home Camp—State Troopers from Ohio and maybe a few town Constables.

Q. You're not particularly friendly with them, is that true?

A. I didn't say I'm not friendly with them. Nick Petrovich—is Chief of Police in Masontown and he was—he stayed upstairs in the Club. He was a little friendly fellow. Once in a while we'd B S about things.

Q. Different cases he was on?

A. Never even gave that a thought. He was up there to have fun. We just talked about babes, booze —how he done on that day—hunting—

Q. Just swapped lies?

A. Yes. Since I don't hunt anymore I can't tell too big of ones.

Q. Mr. Karetski, we talked a little while ago at some length as to whether you were real sure you had an opinion and you were thinking about it. As you think about it, do you believe that you could put this opinion that you are not sure whether you have or not, completely out of your mind, and judge the facts

that you're called upon to decide, based solely on what would be produced here in Court?

A. I have had no opinion – and I mean, I don't think that would be bothering me, if I was here for it.

Q. In addition to what you would learn here, if we would accept you, would you also be remembering these other things that you have heard [575] and learned about in the past or would you be able to set it out of your mind?

A. That might come back to memory but I couldn't say. That might come back and that might not. That probably wouldn't have any bearing. I couldn't say for sure though.

BY MR. KING:

Defense accepts the juror.

BY MR. REILLY:

Commonwealth will accept the juror.

BY THE COURT:

You will step down and be seated in Seat Number 7; and the Clerk of Courts will kindly swear the juror.

BY THE CLERK:

You do swear by Almighty God, that you will well and truly try and true deliverance make, between the Commonwealth of Pennsylvania vs Jon E. Yount, defendant, and a true verdict give according to the evidence and that as you shall answer to God at the Great Day?

A. I do.

BY THE COURT:

You have now been sworn and seated as Juror Number 7. You will always take that seat during the trial of this case and the Court wishes to direct and order you that during any recesses or any other time you are not to discuss this case with anyone nor allow anyone to discuss it with you or within your hearing without reporting such a matter to this Court if it should come to your attention. Of course, you can discuss it with other jurors but only in your Jury Room.

[576] I would ask that you be sure to remember this at all times because in addition to that, you are not allowed the use of a telephone or television or radio nor any reading material. There will be some amusement matters such as games and cards that are being made available in your rooms but other than that you are not to engage in any of it. I ask and order that you not contact anyone. You may talk to the tipstaves but not about the case. You are about to be taken into the Jury Room and you will make a list of things you want brought here for your personal use while you are a juror, such as clothes and other things of that nature. If you drove your car the tipstaves—they will make arrangements to take that car back for you. Mr. Gordon has driven other cars back in the DuBois area. We will provide somebody to take your car back and also to direct your family to prepare a case for you in order that you may have proper clothes. Also, during the trial if there are personal needs you will tell the tipstaves. They will tell the Court and that will be taken care of if possible. You are not to write any letters or notes to give to them to

turn over to anyone. You are allowed no communication of any kind. We hope you will be patient with it and hope that you will not allow it to become a boredom for you. We appreciate the fact that there is this sequestration. You are put all by yourselves but we think this—you can take care of that in your own way. You will now be conducted to the Jury Room. Make up your list so they can see to get your things for you. Give them the keys to your car and they will see it is taken home.

* * *

[784]

* * *

JULIA C. HUMMEL called by the Clerk.

BY THE CLERK: Juror look upon defendant; defendant look upon juror.

You do swear by Almighty God, the searcher of all hearts, that the [785] answers you shall make to the questions asked you concerning your qualifications as a juror, shall be the truth, the whole truth, and nothing but the truth, and as you shall answer to God at the Great Day?

A. I do.

BY MR. KING:

Q. Mrs. Hummel?

A. Yes.

Q. Where do you live?

A. 122 Fulton Street, Clearfield.

Q. How long have you lived there?

A. Since 1949.

Q. And do you live with your husband?

A. Yes.

Q. Do you have any children?

A. Two boys.

Q. What are their ages?

A. Twenty-six and twenty-four.

Q. Do they live with you?

A. No.

Q. Where do they live?

A. One in Duncansville, RD and one is at Mc-Connellsburg.

Q. Are they married?

A. Yes.

Q. How are they employed?

A. They are both Ministers.

Q. What does your husband do?

[786] A. He works for Kurtz Brothers.

Q. What does he do for Kurtz Brothers?

A. Deisel Mechanic.

Q. How long has he been so employed?

A. Twenty some years. I don't know – either 23 or 24 years.

Q. Where are they located?

A. Down here at the corner of Reed Street.

Q. Just a couple of blocks from here?

A. Yes. It's school supplies.

Q. Does he work right in the shop or plant?

A. In the garage.

Q. Are you employed Mrs. Hummel?

A. I'm on disability pension from Bell Telephone.

Q. How long have you been on pension?

A. It would be three years this November.

Q. You mentioned it's disability pension. Do you have some condition of health—

A. I had a spinal fusion done on my back and they just don't feel with the amount of absences I could go back to work.

Q. When did you have the laminectomy?

A. Sixty-seven—three years this November 12 I know. It was in Pittsburgh.

Q. How long did you work for the Telephone Company?

A. I worked there prior to when I was married—I worked there—then my husband was inducted to the Service and I went to California and I came back here and had my children—one boy before my husband [787] went overseas and when he came back I had my other boy—17 years and 3 months I have accumulated service but I worked longer because I worked part-time occasionally.

Q. The Telephone Office in which you worked, is that right here in Clearfield?

A. Yes.

Q. From what you've told me you were so employed during 1966?

A. Yes.

Q. And '67 up until your operation?

A. Yes.

Q. Were you just a general operator or did you do anything particular?

A. I was a senior operator and part-time supervisor and part-time clerk.

Q. Mrs. Hummel, are you familiar with the matter concerning Jon Yount?

A. Not too much.

Q. When I say familiar, I don't mean do you have any personal knowledge. You do know there's such a case?

A. Yes.

Q. And you're familiar with the fact there was another case about four years ago?

A. Yes, but I wasn't too familiar with that. I wasn't feeling too good myself and I didn't know too much.

Q. You knew there was such a matter?

A. Oh yes, yes I did.

Q. You knew it existed?

A. Yes, that's right.

[788] Q. You read the newspapers?

A. Not too much.

Q. You heard the radio and television –

A. I can't say that I did too much.

Q. Did you at all?

A. I'd say yes, a little.

Q. You knew what the matter concerning Jon Yount was about, did you not?

A. Yes.

Q. You knew it wasn't about the telephone strike?

A. Oh yes, definitely.

Q. Now, in hearing about this matter did you hear other people express opinions concerning Mr. Yount?

A. Yes.

Q. Did you upon occasion perhaps express an opinion you had about it?

A. Not necessarily because I couldn't say. I just –

Q. Regardless of whether you were required to or not, did you ever? That's what I'm asking you.

A. I myself, at the time it happened – I can't recall but I may have said, perhaps so or something like that. As I stated, my health wasn't good then and that's why I wasn't – at that time I was under quite heavy sedation and my health wasn't good and I

wasn't out around too much except to work and back because I had so much pain.

Q. You were working at that time, were you not?

A. In '66, yes.

Q. And you were doing the other things that you'd ordinarily do?

[789] A. Wait—'67—November '67 I had the operation. Then in March of '66 I had a disc removed. That was down in Pittsburgh too. I went back to work, I believe, in June.

Q. Of '66?

A. Of '66.

Q. And then you worked up until November of '67?

A. September 22nd.

Q. And you had the laminectomy?

A. I went down there and they sent me back because I had a cold and I went back down again.

Q. To Pittsburgh?

A. Yes.

Q. Do you belong to any clubs Mrs. Hummel, any ladies clubs?

A. No.

Q. While you're on disability pension do you do anything except take care of your home and chores around there?

A. I have a lady come in and do it but I have taken on some work this summer. I'm trying selling. I'm selling Dutch Maid clothes and my husband goes to put it up and I do the demonstrations.

Q. Do you go to people's homes to do this?

A. Yes.

Q. And put on the demonstration and show how to do these different things?

A. Yes.

Q. How long have you been doing that?

A. June 9th I started.

[790] Q. When?

A. June 9th – June.

Q. Since June 9th?

A. Yes.

Q. And about how many demonstrations do you put on a week?

A. Well in June I think I only had three but lately I have averaged two to three a week.

Q. Have you ever been called or served on a jury before?

A. No, I was called once but not on any case.

Q. About how long ago?

A. It must have been '65.

Q. In this particular Court?

A. Yes. I'm not sure of the year but before I had the operation—before I had the first operation, the disc operation.

Q. Mrs. Hummel, if you were to be asked to stay with us and serve as a juror on this case, would it work any great hardship on you because of your health or because of any other reason if you were asked to stay here and perhaps be with us for perhaps several weeks?

A. I don't know who is going to take care of my stock and merchandise. I—somebody could get in touch with my supervisor and she could take over. I'm a nervous person. I'm a nervous person.

Q. You're nervous?

A. Yes.

Q. Are you under any kind of medication for your nervousness?

A. Yes.

Q. Do you take medication for it?

[791] A. Yes.

Q. And do you have that medication now?

A. Yes.

Q. How often do you take it?

A. Just as I need it. I take valium and I take $\frac{1}{2}$ tablet in the morning and maybe one at noon and maybe $\frac{1}{2}$ at night and always $\frac{1}{2}$ when I go to bed.

Q. Do certain types of activities increase your metabolism so that you are required to take this

valium and other medication more frequently—if you know?

A. If I get highly upset I'd say I would have to take—I'm not allowed to take more than four a day.

Q. That's the valium you're talking about?

A. Yes.

Q. How is your back condition since you have had the spinal fusion?

A. I was down at Philadelphia Medical Center in Philadelphia in September and he said he thought my back was fine but because of the absence of the disc—and I had a hysterectomy a number of years ago—and my fusion, it was—there was so many days—The Telephone Company is very very strict on their attendance and Dr. Erle said that he would have to wait and weigh this very highly and he said once they put a girl out on disability pension, they think a long time before they do this. He said I would have to go each year to get a check up. If he means I'll go to work, I don't know.

Q. Having had the spinal fusion is your back effected by periods of long sitting?

[792] A. No, sitting doesn't bother me but I do have to lay on a very very hard bed.

Q. Do you have a special bed at home?

A. An orthopedic bed.

Q. And if you don't sleep in your special bed, does it cause discomfort?

A. Yes.

Q. And if you undergo this prolonged discomfort does this effect your health generally?

A. No, it's just I get in a place generally if I travel or anything, what I'll do is, for me, is put the mattress on the floor and we'll have the bed made up on the floor for me because that's the only thing solid enough for me and that way I can rest.

Q. You told me before Mrs. Hummel, that you did have an opinion concerning Mr. Yount. Is that correct?

A. I said I had mentioned it at the first, yes.

Q. And now do you have an opinion today as to Mr. Yount's guilt or innocence?

A. Well, only on just what he said himself—that he was guilty.

Q. Then you do have an opinion regardless of what it was based on—do you have an opinion right now?

A. I really don't know what to say. I don't know what would be the truth, whether to say yes or no.

Q. You mean you can't tell which would be the truth and which would not be the truth?

[793] A. I can't say that he was guilty or that he wasn't.

Q. I'm not asking you that. I'm asking whether or not you have an opinion as to which it is, without telling me which opinion you have. Do you have an opinion as of right now?

A. No.

Q. What happened to cause you to lose or dismiss or set aside the opinion you did say you had?

BY MR. REILLY:

Well Your Honor—

BY THE COURT:

She said she was under sedation—she couldn't remember. She didn't say she had one. Is that correct Mrs. Hummel?

A. Yes, that's correct.

BY MR. KING:

Q. Mrs. Hummel, I'm not asking you right now what your opinion is, but merely whether or not you do have an opinion, without asking you what it is. Do you recognize the difference?

A. There's so much at stake. I couldn't say because I don't know that much about it and that's the truth. I really don't.

Q. As I recall a couple of minutes ago I asked if you had an opinion as to Mr. Yount's guilt or innocence and you said yes, only because he had stated that he was guilty?

A. Yes, that's what I said.

Q. In consideration of what you know he said, you have an opinion. Is that correct?

A. I wouldn't know without hearing the whole story because how do [794] I know what he did.

Q. What you said he said caused you to have an opinion. Is that correct?

A. I suppose you would say that would be correct.

Q. What?

A. I suppose you would say that is correct. I – just because he said it, I believed it.

Q. Did that cause you to form an opinion?

A. Well really I didn't think any more about it because I was –

Q. Please answer my question.

BY THE COURT:

I think this lady has answered but if you want some other answer you may ask the question.

BY MR. KING:

The answers, I would submit to the Court, have been highly equivocal and I only want to find out a firm answer of the jurist so we could go from there.

BY THE COURT:

Yes, but you shouldn't say to her she hasn't answered when she has. This woman has been answering your questions.

BY MR. KING:

I didn't mean it to sound that way. I meant the answer she had given was not an answer to the question.

BY MR. KING:

Q. Mrs. Hummel, you told me a few minutes ago you did have an opinion [795] which was, of course, based on what you understood Mr. Yount to have said?

A. Right.

Q. Is that right?

A. Right.

Q. Okay now. So, therefore, you do have an opinion. Is that correct?

A. That was at that time.

Q. Alright now, what occurred, or what—has anything occurred—anything happened that you know about that caused you to change the opinion that you just told me you had?

A. No, because I had completely forgotten about it. I was so sick myself I didn't think of anything.

Q. So nothing has happened to cause you to change that opinion then. Is that true?

A. That's right, only just by what he had said at the time. Now, I don't know anything as far as what's going on or prior to when he had said he was guilty. I hadn't read any paper. I couldn't I was flat on my back and I was—in fact, I wasn't much in Clearfield, over town, only about five times over the past three years.

Q. Mrs. Hummel, if you were to be asked to be a juror in this case would you be able to put aside this opinion that you have and then decide the case only

on evidence that you would hear in Court and instructions that you would get from the Court? Think for a minute to see if you understand what I said – what my question was.

A. I couldn't say yes or no until I had heard.

[796] Q. Well, would you still remember the things you were talking about before and would you consider those things as well as the things that you would hear in the Court Room – would you put them all together before you would try to decide is what I'm asking?

A. No, I don't think so.

Q. What would you consider?

A. What evidence I heard because that's the only thing I could base my own personal opinion on. It would be what I would hear because I don't know only just what he said. Even, I don't know exactly where it happened because I wasn't conscious of the fact at that time to know because I was working under a very heavy strain.

Q. Nobody is asking you anything about that Mrs. Hummel. Mrs. Hummel, are you familiar with or acquainted with any members of the State Police or any police department?

A. Yes, I know Trooper Harris.

Q. Where is he located?

A. He was in Punxshtawney. I think he's back in Clearfield now, I think.

Q. How do you happen to know him?

A. Through Church.

Q. To what Church do you belong?

A. Calvary and Independent Bible Church.

Q. Is there anything in your religious training or religious following that would prohibit you from sitting on the jury and judging?

A. No.

Q. How do you happen to know Lt. Harris?

[797] A. He's been to our Church and his wife has a beauty parlor and I've had her do my hair a couple of times but mostly from visiting in the Church.

Q. Has he visited in your home?

A. No.

Q. Have you visited in her's?

A. No.

Q. Are Lt. Harris and your husband friends?

A. They know each other. I'd say Dan knows more State Police than I do because he goes to the State Inspection meetings and they are there at those meetings.

Q. Has your husband ever expressed his opinion concerning Mr. Yount?

A. No.

Q. I'm not sure if I asked you, do you know Mr. Reilly or Mr. Fennell?

A. I know Mr. Reilly but I don't think he knows me.

Q. How do you happen to know Mr. Reilly?

A. He was here when I was on Traverse Jury before.

Q. When was that?

A. I think about five years ago; it was before my operation.

Q. Did you sit on any case in which Mr. Reilly represented one side or the other?

A. I can't recall. I only sat in on one and probably Judge Cherry could help me out on that. The case was—the man from Curwensville that had molested a little Plymptonville girl in Elementary School. What was his name?

[798] BY THE COURT:

My memory isn't that good.

BY MR. REILLY:

I remember that case—Riddle.

A. I sat on that case, but I don't remember who the attorneys were.

BY MR. KING:

Q. You know Reilly was one of them?

A. I know he was here. That's how I know him.

Q. Mrs. Hummel would you like to sit on this jury?

A. I wouldn't like to.

Q. Do you know of any reason that we have not touched upon why you should not?

A. No.

Q. Do you know of anything in your own business, emotional or health that—social or family life—

A. There's just my husband and I at home. There would be my business and that would have to be taken care of by some one—or taken over by my supervisor. If I was called—that's the only thing I'm thinking about. That's why I said I would rather not. That's why I said I would rather not, because of my business I'm in.

Q. Would the fact that you're concerned about your business militate to cause you to not be able to pay attention and not follow what was going on—would you be concerned about it?

A. Not if I knew she was taking over for me, then I'd be alright.

Q. How would you know it?

A. She would have to be let known. She doesn't even know I'm here. [799] She lives in DuBois.

Q. Do you have a supply of your prescription—of your valium?

A. Yes.

Q. Do you have a supply of that?

A. Yes.

BY MR. KING:

Pass the juror.

BY MR. REILLY:

Q. Mrs. Hummel, do you know or are you acquainted with the defendant Yount?

A. No.

Q. Or any members of his family?

A. No.

Q. Do you know Mr. David Blakley from DuBois?

Q. Or Mr. King or Mr. Sabino?

A. -No.

BY MR. REILLY:

Pass the juror.

BY THE COURT:

Q. Do you know any of the Rimer family – R-i-m-e-r?

A. No.

BY MR. KING:

Defense accepts the juror.

BY MR. REILLY:

Commonwealth accepts the juror.

[800] BY THE COURT:

Mrs. Hummel, will you step down and be seated in Seat Number 8 where you will be sworn.

BY THE CLERK:

You do swear by Almighty God, that you will well and truly try and true deliverance make, between

the Commonwealth of Pennsylvania vs Jon E. Yount, defendant, and a true verdict give according to the evidence and as you shall answer to God at the Great Day.

A. I do.

BY THE COURT:

Mrs. Hummel, you have now been sworn and seated, of course, as a juror in this case. The Court would admonish you at all times you are not to discuss this case with anyone nor allow anyone to discuss it with you, nor allow anyone to discuss it within your hearing except other members of the jury of course. If any of these other things occur, please call them to the attention of the Court.

You will be sequestered in the Holiday Inn where you will be quartered and also will receive your meals, except the noonday meal which you will receive here. We ask that at all times you be extremely careful and that you refrain from talking about anything concerning this case in a loud voice at all, because you might be heard, when being brought back and forth to be fed or to be quartered. You may talk to the tipstaves and matrons only to receive personal needs or things of that nature. Not even they are permitted to talk about the case with you. They are there to serve you and, [801] therefore, the only purpose they serve is to—as a matter of security and to take care of your wants. When we file you into the Jury Room to await further Court, we would ask that you make up a list of things you will want obtained from your home for you and of course, if in the process you will need other things as each day goes on, you may

tell them what you want. Write it out and then we will pass upon it. You are not allowed to send any notes of any kind except that they be passed upon by the Court. We desire that there be no communication. Therefore, there is no telephone to be used at any time. The television and radio are not to be used. In fact, they aren't there but we would ask that you not make any attempt to use any of those. There are some provisions for occupying your time such as games and things like that but if there should be anything at all to satisfy your purposes you may inquire about it and we will pass upon it. However, I do ask that as soon as you get into the room, write your needs down so that we may contact your home. You may also direct who is to be called, as I recall your testimony—who is to be called to take over your work such as a supervisor. I believe you mentioned it was your supervisor. Therefore, we will take care of informing those persons. Alright. You will now be conducted to the Jury room.

BY JUROR:

Q. Can I have my medication brought?

BY THE COURT:

Yes, at all times, definitely. We have already renewed one prescription for one of the jurors. We will take care of. Just notify [802] the tipstaves.

We will call a five minute recess.

3:50 P.M. Court recessed.

4:05 P.M. Court reconvened. Defendant in Court.

OMAR H. IVES called by the Clerk.

BY THE CLERK: Juror look upon defendant; defendant look upon juror.

You do swear by Almighty God, the searcher of all hearts, that the answers you shall make to the questions asked you concerning your qualifications as a juror, shall be the truth, the whole truth, and nothing but the truth, and as you shall answer to God at the Great Day?

A. I do.

BY MR. REILLY:

Q. Will you state your name?

A. Omar H. Ives.

Q. Where do you live?

A. Tyler, Pennsylvania.

Q. How long have you lived there?

A. Twenty-six years.

Q. Mr. Ives, are you married?

A. Yes I am.

Q. Have you any children?

A. Two.

Q. Their ages?

A. Twenty-two, twenty-four.

Q. Are either of them living at home with you?

A. They are not.

[803] Q. Mr. Ives, by whom are you employed?

A. Arco-Speer Carbon, St. Mary's.

Q. Arco-Speer Carbon. Mr. Ives, do you know or are you acquainted with the defendant, Jon Yount?

A. I do not know him personally.

Q. Or any members of his family?

A. I know his father.

Q. How well do you know Mr. Yount?

A. Pretty well. I worked with him.

Q. You worked with him?

A. In the same plant.

Q. Did you ride back and forth together?

A. No sir.

Q. Mr. Ives, do you feel your acquaintanceship with the defendant's father would influence your decision if you were selected as a juror in this case?

A. No sir.

Q. Have you formed an opinion as to the guilt or innocence of this defendant?

A. I would like to be able to truthfully answer that. I'm not sure.

Q. Well Mr. Ives, if you were selected to sit as a juror in this case would you be able to enter the jury box with an open mind and base your verdict only on the evidence and testimony that you would hear plus the instructions that the Judge would give you?

A. I believe I could sir.

Q. You could do that?

[804] A. Yes.

Q. And would those two items, the evidence and testimony and the Judge's instructions be the only things that you would base your verdict on?

A. I believe so sir.

Q. Do you know Mr. David Blakley of DuBois?

A. Not personally.

Q. Has he ever done any legal work for you?

A. I believe at one time I had a Deed searched and I believe his name was on it.

Q. Would your knowledge or acquaintanceship with Mr. Blakley in any way influence a verdict which you may be asked to render?

A. I wouldn't know Mr. Blakley if he was in front of me.

Q. Well he's not.

A. I wouldn't know him.

Q. Do you know Mr. King or Mr. Sabino?

A. No sir.

Q. And you have stated, I believe, your acquaintance with Mr. Yount would not in any way influence or effect your verdict in this case. Is that correct?

A. Yes sir, that is correct.

Q. That is correct?

A. That is correct.

BY MR. REILLY:

Pass the juror.

[805] BY MR. KING:

Q. Mr. Ives, how long have you worked at this plant you work at?

A. Twenty-nine years.

Q. What is your specific employment — what do you do?

A. A kiln attendant.

Q. Kiln attendant?

A. In other words, yes, I have control of firing — the baking in the kilns at Arco Speer.

Q. You turn the gas on and get the temperature constant or do whatever you do to keep it constant?

A. That is correct.

Q. And as I understand you've worked with Mr. Yount, Senior?

A. Not personally with Mr. Yount. I worked in the same plant as Mr. Yount and know him. I was never employed with him as he is a brick layer and his job at Arco Speer was a bricklayer at the time he worked there. I was around him quite a bit. I control the kilns and he took care of the brick work.

Q. These are lined with brick?

A. The kiln, it is brick.

Q. And have you ever spoken to the elder Mr. Yount in the course of working in the plant?

A. Have I ever spoken to him?

Q. Yes?

A. Oh, certainly.

Q. Do you know any members of the Rimer family?

A. No sir I do not.

[806] Q. Have you ever been called or served on a jury before?

A. I have been called for jury duty. I never served on a jury.

Q. Here in this Court?

A. That is correct.

Q. When was the last time you were called, do you recall?

A. One year ago. It seems like yesterday. It seems like every time they have Court.

BY THE COURT:

Q. I'd like to be sure now. Did you say you never served on jury?

A. No, I have been called but never selected as a juror.

Q. Therefore, you never served in criminal cases?

A. Correct.

BY MR. KING:

Q. Mr. Ives, do you know any members of the State Police force.

Q. Personally? As a friend or something? No. I know a few State Policemen. Now, I know Sergeant Dussia, excuse me, Colonel Dussia. Now — and I know a couple of Ridgeway Policemen.

Q. Colonel Dussia, where is he located?

A. I believe in Harrisburg, I believe. If I'm correct — he worked at the Sub-Station in DuBois. He and I attended the same church.

Q. How do you know him?

A. From attending church.

Q. Was there somebody else you knew?

A. A few in the Ridgeway Barracks because they are from the valley where I live.

[807] Q. Do you know Spike Victor?

A. No I don't.

Q. Mr. Ives, did you tell us that you did not have any firm opinion as to Mr. Yount's guilt or innocence in this matter?

A. That is correct.

Q. And I assume you mean at this time you don't have any. Did you ever have an opinion?

A. Yes, I would say I did.

Q. Was that based upon what you have read and heard?

A. In newspapers, yes.

Q. And what — what occurred to cause you to change or to cause that opinion to go away?

A. Well I don't know. I suppose as time mellows things.

Q. Would you be able Mr. Ives, to listen to the evidence that would be produced here in Court and the instructions from the Court and then base your verdict or decision on those things alone without respect to this opinion that you used to have?

A. I believe I could sir. One reason I had—I was so upset—my daughter graduated with Pam Rimer, or would have.

Q. Did you know Pamela Rimer yourself?

A. No sir.

Q. But you say your daughter was in the same class?

A. That is correct sir.

Q. Did you ever discuss this matter with your daughter?

A. Yes, I'm afraid so.

Q. And were these discussions you had with your daughter part of the [808] things or one of the things that you had in your mind in forming the opinion that you formed?

A. I think possibly, yes.

Q. Your daughter—I gather she is married now?

A. Yes, that is correct.

Q. And where does she live now?

A. St. Mary's, Pennsylvania.

Q. What does she do over there?

A. She's a housewife.

Q. And your son-in-law, what does he do?

A. He's in bottle gas business—propane.

Q. Have you seen or talked with your daughter lately—meaning within the last couple months?

A. About this case?

Q. That was going to be my next question.

A. I saw her within the last 24 hours.

Q. And of course, if you—when did you get the notice to be here this morning?

A. Approximately 8:30 last night.

Q. Have you seen or talked to your daughter between then and now?

A. No sir.

Q. Mr. Ives, I think you told us that because of your daughter's association or relationship with the Rimer girl you were, I believe, in your words "were very upset"?

A. That is correct.

Q. Now, has there been anything that occurred between then and now [809] that you can point your finger to or can tell us that caused you to be less upset than you were then?

A. Just time.

Q. Just the passage of time?

A. Yes.

Q. Do you know of any additional facts that have been brought to your attention that caused you to have this opinion be less severe or strong than it was before?

A. No sir.

Q. If you were asked to serve with us Mr. Ives, for a period of time which might be necessary as a juror here, would it work any hardship on you in your work or in your family situation?

A. Wor^d yes.

Q. What difficulty would it cause at work?

A. Money-wise.

Q. Between the time you received your notice to come here this morning sir, did you discuss the matter over with your wife?

A. I would say yes. We talked about it.

Q. And did she express any opinion to you that she might have as to Mr. Yount's guilt or innocence?

A. I must answer truthfully?

Q. You're under oath and we expect truthful answers?

A. My wife, she's really prejudiced against him.

Q. She expressed a very strong opinion about it?

A. Yes, that's right.

Q. Did this cause you to recall the opinion that you had had previously?

[810] A. I don't think so sir.

Q. Knowing the opinion your wife has —

A. It's her mind sir.

Q. Knowing the opinion your wife has does this affect your opinion at all?

A. I don't think so sir.

Q. Did you see the papers over the last week Mr. Ives, with notice of the fact this matter was coming up again?

A. Yes sir.

Q. When you saw these notices was there any discussion at your house between you and your wife about this matter?

A. Not any great deal of discussion.

Q. You had no idea or wild dream you would be receiving a notice to be here?

A. That is correct.

Q. And in some of the conversation, I think you told me you spoke to your daughter within the last 24 hours. Was any mention of this matter made?

A. I believe she has mentioned it around home yes. After all, she knowed Mr. Yount.

Q. Mr. Yount?

A. Yes, she went to school.

Q. Mr. Ives, do you belong to any social groups or organizations?

A. I belong to the Firemen.

Q. Volunteer Firemen?

A. That is right—and a fraternal group—CFC, Catholic Fraternal Club.

[811] Q. Any others—any Veterans organizations?

A. VFW.

Q. Sportsmen's or Hunting or Service Clubs?

A. I belong to the Sportsmen's Clubs—local ones.

BY MR. KING:

Pass the juror.

BY MR. REILLY:

Commonwealth accepts the juror.

BY MR. KING:

Defense challenges peremptorily.

MRS. JESSIE M. PARKS called by the Clerk.

BY THE CLERK: Juror look upon defendant; defendant look upon juror.

You do swear by Almighty God, the searcher of all hearts, that the answers you shall make to the questions asked you concerning your qualifications as a juror, shall be the truth, the whole truth, and nothing but the truth, and as you shall answer to God at the Great Day?

A. I do.

BY MR. KING:

Q. Mrs. Parks?

A. Yes sir.

Q. Where do you live please?

A. 711 Daisy Street, Clearfield. East End.

Q. How long have you lived there?

A. Twenty-six years.

Q. Are you married?

A. Yes sir.

[812] Q. And you live with your husband?

A. Yes.

Q. Do you have any children?

A. I have two sons and two daughters.

Q. What are their ages?

A. Thirty-eight, thirty-six, thirty-three, and thirty.

Q. And where do they live?

A. Well, my youngest daughter lives in Wheaton, Maryland. My oldest daughter lives in Olanta and my youngest son lives in East End and the oldest boy lives at home with his father and I.

Q. Is the oldest boy employed?

A. He's at Batcho Typewriter Company.

Q. Is Mr. Parks employed?

A. He's in the Maintenance on the Highway Department.

Q. The Commonwealth of Pennsylvania?

A. Yes.

Q. In what area does he work?

A. At the Hyde barn up here and helps maintain and clean up on this new route along the road.

Q. How long has he had that job?

A. Four years the past May.

Q. Before he had that job what did he do?

A. At Number 2 for Harbison-Walker here in Clearfield.

Q. How long was he with Harbison and Walker?

A. Twenty-one years.

Q. Did he retire from there?

[813] A. He—yes, he took it on age and then he got a job on the Highway and he's taking his retirement in the Spring.

Q. Are you employed any place outside the home?

A. No sir.

Q. I gather Mrs. Parks you've lived in Clearfield most of your life?

A. Well, we moved from Bigler 26 years ago but I lived in Woodland until after I was married.

Q. Mrs. Parks are you familiar with the matter concerning—involving Jon Yount?

A. Yes, as much as I have read in the paper.

Q. And do you belong to any ladies clubs or social organizations?

A. No sir.

Q. Besides taking care of the home Mrs. Parks, do you do anything else?

A. My son and my husband and I fish—fly fish—something we enjoy very much.

Q. Where do you do that?

A. Well, a good many of the streams in Pennsylvania. We go over to what was formerly Fisherman's Paradise. That's where I learned to fly fish and to other open streams—just for the fun of getting out.

Q. Mrs. Parks, you have read about the Yount matter and have you also heard radio and television broadcasts about it?

A. Yes but I didn't listen too much to it. I just felt—now this is the way I felt. It was a sad case and like I say, if you believe everything you hear and you read it can make you wonder, and the least I thought about it the better I felt for all concerned. You know what I mean—because considering the gentleman that was in it [814] and the girl and her parents—and I felt—what if that would happen to me—what if that would have been my son or daughter. So the least I thought about it the better I felt about it.

Q. During the process of thinking about it and before you went through the process of thinking less and less about it, did you form any opinion as to the guilt or innocence of Mr. Yount?

A. Well, truthfully I can say this. I felt this way about it. You know they say there's two sides to every story. Like they say, our Courts are here until the

man is proved guilty or innocent and I felt this way—and in a lot of ways it didn't jibe with me and in a lot of ways it did. I can't say he's guilty or I can't say he isn't guilty and that's what my opinion is. I'm not saying yes or no. But I felt that I wouldn't want to be on the jury but then I felt—if it was my duty and I would be called I would do the best of my ability but here is Judge Cherry this morning—his summation of it. I can't exactly say in his words—either you have to prove whether he is guilty or whether he isn't. If you can remember what you said when you talked—I'm sorry—what I mean—you can say well he is, but when you get to thinking can you truly say until you actually know. When the trial was on I didn't read any of it and I didn't get up the assumption to say he's guilty and I can't say he isn't guilty. It's just the same thing and—but so—that's the way I feel about it. Now, as far as my opinion which you want, well, I would definitely have to hear it before I could say one way or other. If I'm selected that's okay and if you don't think I'm qualified that's okay too.

[815] Q. Mrs. Parks, did what Judge Cherry said this morning in part, cause you to feel the way you do right now as you have just stated to us?

BY MR. REILLY:

I think we will object to that—

BY THE COURT:

I would overrule—he is entitled to the answer. He is entitled to know.

A. Well I—like I felt—well, he's guilty and yet over the days—when it was brought up again—when

he was gonna have a new trial, I thought why should we have another trial, but yet I got to thinking. Well, I was on jury duty three years ago and picked—that in itself was education. There's too many people today that don't even know—I didn't even know myself then, how it was to be drawn or picked for jury duty and it was an education to know how this is taken care of and this is still an experience to me. And in one sense of the word—let us say I thought he was guilty—but then who am I to pass judgment—and we can say one thing but mean something else or we can mean something else and say something else. So I could say I am biased but yet there is all prospects to look at it. Now I hope—I know I'm not that well—to get this across to you gentlemen but I am just trying to explain to you. There's two sides to every story and I really don't know both sides. I hope I'm not fouling you fellows up. I know you have a job to do and it makes it hard for you.

BY THE COURT:

Mrs. Parks, I wonder if you would just step down for just a moment. This is no recess. Everybody will remain. (Judge leaves Bench).

[816] Judge Cherry returns to Bench.

BY THE COURT:

Now Mrs. Parks, you may resume the stand.

You may proceed.

BY MR. KING:

Q. Mrs. Parks, do you watch the television shows concerning trials like Perry Mason for instance?

A. Yes.

Q. And do you watch any of the other ones that may be on now since Perry doesn't appear so frequently as he used to—do you watch the other television shows?

A. Yes.

Q. Have you—you used some legal talk a little bit ago in your discussion. Is that where you learned that?

A. Well, I think to a certain degree because like I say—those I know how they're put on. But there's a lot of them that's educational, if you understand what I mean because like I said, you have no idea what the other jury—on the trial that I sat on is so much different than this but—

Q. How do you know. You haven't been in on this one yet?

A. That's true but it will be different—what I mean—

Q. How do you know that?

A. Well it would have to be different.

Q. Why?

A. It's a different case all together.

[817] Q. Would that necessarily make the trial different in your opinion?

A. No, not that I mean that as far as that goes but for the reason of this trial is so much different then to the—the other case was settling a claim for a home or something like that—and I watch the Bold

Ones and I do like that. It's, I don't know. It's just something about it that it gives you an idea of what could go on.

BY THE COURT:

I believe that would answer the question. I believe we're getting far afield as to what she watches and doesn't watch.

No offense to you—I'm just ruling on the matter.

BY MR. KING:

Q. Mrs. Parks is there any condition of health that you have or the health of your husband that might work a great hardship on you or on him if you were to be away from your home for several weeks or a protracted period of time if selected as a juror?

A. Well, I have a pancreas condition. Now, I'm under Dr. Aughinbaugh's care which I haven't seen him since April and sometimes it will flare up and lasts two or three days and other days it gets pretty severe. Whether it might cause it to flare up, I don't know. It's what they call pancreatitis.

Q. Are you on any special kind of diet?

A. Yes, I'm on a diet. I have high protein, low fat diet. This is my diet.

Q. This usually has something to do with people with pancreatitis?

A. Yes, it's the enzymes that control—breaks the food down, is what it is.

[818] Q. If you don't stay on your diet, does this cause you discomfort?

A. Well, there's different times—they have changed the diet as to what it used to be but I have to watch and it's a condition I have to live with, but I'm careful to protect myself. If I would be called it might flare up and it might not. That's something I can't tell.

Q. When you prepare your own food at home, do you keep your diet in mind?

A. Yes.

Q. If you were to be eating in a restaurant you wouldn't be able to do that—

BY THE COURT:

I beg to differ with you. We provide the proper food for all of the jurors.

BY MR. KING:

Q. I don't recall if we asked you Mrs. Parks, do you know any members of the Jon Yount family?

A. No I do not.

Q. Or do you know any members of the Rimer family?

A. No sir.

Q. Do you know Mr. Reilly?

A. No I don't.

Q. Or Mr. Fennell who works with Mr. Reilly?

A. No I don't.

Q. Do you know any members of the State Police?

A. No.

Q. Would you like to be on this Jury Mrs. Parks?

[819] A. Well, I'm not crazy about it. Let's put it that way.

Q. Why did you put it that way?

A. The—I just—well, I said from choice say, I would not like to be on the jury. I said I hope I don't get on it but if I do, I'll go. That's it.

Q. When you said you hoped you don't get on this—you had a reason for saying that. Off hand, what was the reason?

A. I just felt—I don't want—not against the case or anything like that. I just felt I wouldn't want to be on it. Not for any technicality or anything like that. Well, it's hard to explain. Like I say, I'm—if I'm to serve I'll serve but truthfully, I don't feel—I'm not crazy about being on it.

Q. Is it because of the nature of the case Mrs. Parks, that you felt you wouldn't want to be a juror or because you just didn't want to be a juror generally, if you can tell me?

A. Well yes. To one sense of the word, but like I told you—in my own mind this morning—I was down at my son's and when I came home my husband says, greetings—you're to be at the Court House at nine o'clock tomorrow morning.

Q. This paper that was delivered was given to your husband and not given to you?

A. Yes.

Q. And what happened then?

A. I said, I said why—no—why did they pick me. And then I said, well, I'll look at it this way. It's my duty to go and if I'm picked to serve it's okay and if I'm not it's okay. That's just the way it is.

[820] Q. Did your son or husband express their opinion as to this matter when they found out you were to come in here and be a prospective juror?

A. All they said, if you're called, just tell them how you feel.

Q. Did you tell them how you felt?

A. No.

Q. Did they tell you how they felt?

A. No.

Q. Mrs. Parks, is there anything that you know about yourself that perhaps I have not had the clairvoyance to touch upon to cause you to think you would not be a qualified juror in this case?

A. Well, I don't know how to answer that, because if I'm—if you qualify me and I'm called I'll do the best I can whether in my mind I feel whether I'm doing right. It's hard to explain just how I feel about it. Now, the only thing I can say is this. If I must serve—not must serve—I just hope that my health holds up. Whether it would cause me trouble I don't know. I got a letter out of Pittsburgh in September to be called for Court down there but I sent the paper back and said I was under the doctor's care and said it would be unadvisable to accept me. It's—sometimes in a case like that they run quite a while. But for me to go down there whether it would

—I'm 62 years old. When a person starts to get up there, you never know. What I mean, whether something might upset you a little bit. It's like the doctors told me the condition I have is something I have to live with and when I have one of the flareups it's pretty bad and other times it's not too bad and I don't make myself an invalid and I try to keep going because it's better for me.

[821] BY MR. KING:

Pass the juror.

BY MR. REILLY:

Q. Mrs. Parks?

A. Yes sir.

Q. I think you were asked this, but do you know the defendant Yount?

A. No I don't.

Q. Do you know any members of his family?

A. No sir.

Q. Do you know David Blakley from DuBois?

A. No I don't.

Q. Do you know Mr. King or Mr. Sabino?

A. No.

BY MR. REILLY:

Pass the juror.

BY THE COURT:

Q. Mrs. Rimer—I'm sorry, Mrs. Parks, do you know any members of the Rimer family?

A. No sir.

BY MR. KING:

Q. Do you know Mrs. Hummel?

A. No.

Q. She was a telephone operator here in Clearfield?

A. No I don't.

BY MR. KING:

Defense accepts the juror.

[822] BY MR. REILLY:

Commonwealth accepts the juror.

BY THE COURT:

The Clerk of Courts will kindly swear the juror.

BY THE CLERK:

You do swear by Almighty God, that you will well and truly try and true deliverance make, between the Commonwealth of Pennsylvania vs Jon E. Yount, defendant, and a true verdict give according to the evidence and that as you shall answer to God at the Great Day?

A. I do.

BY THE COURT:

Mrs. Parks, you are now seated and sworn as a juror. You will be sequestered, of course, with the other jurors. Your quarters will be provided as well as food. You will not be allowed to communicate with

anyone except as through notes which will be passed upon by the counsel and Court.

I would admonish you not to discuss this case with anyone nor allow anyone to discuss it with you or within your hearing without reporting such an incident to the Court if it should occur. You will not be allowed any television or radio, telephone or anything of that nature. However, the tipstaves and matrons will always be there and you may make your wants known to them. Particularly we would ask you to make a list of your needs and when you have they will get in touch with members of your family and those things will be brought to you. I would assume that perhaps you may notify the tipstaves if the family does not drive, of course, we would hold everyone here until they are [823] able to bring the things to you. Remember, there can be no written communications of any kind between you except that you pass them to the tipstaves who will pass them to the Court and they will be passed upon by the Court and all of counsel. At all times be extremely careful not to talk in a loud voice about the case and do not talk about the case unless you are in the jury room. You will kindly refrain from any discussion of the case in order that you will not be heard by anyone.

With that, you will now be conducted to the jury room where you will make your list please.

We will call a ten minute recess at this time.

5:05 Court recessed.

5:17 Court re-convened. Defendant in Court.

BY THE COURT:

Members of the jury both prospective and seated. We are about to recess for the day until tomorrow morning at nine o'clock. Kindly remember the directions and mandates of the Court that you are not to discuss this case with anyone nor allow anyone to discuss it with you nor to talk about it within your hearing. If any of these things should happen, of course, report them to the Court.

You are now in recess and you will be conducted, the seated jurors, to the bus to be taken to your quarters.

All jurors are to report tomorrow morning at nine o'clock. To those who are prospective, only you seven, kindly report to the rear of the Court Room where you have been seated.

[824] 5:20 P.M. Court recessed.

9:00 A.M., Wednesday, November 11, 1970
Court reconvened.

Defendant in Court.

. . .

[853]

. . .

ALBERT I. UNDERCOFFER called by the Clerk.

BY THE CLERK: Juror look upon defendant; defendant look upon juror.

You do swear by Almighty God, the searcher of all hearts, that the answers you shall make to the

questions asked you concerning your qualifications as a juror, shall be the truth, the whole truth, and nothing but the truth, and as you shall answer to God at the Great Day?

A. I do.

[854] BY MR. KING:

Q. Mr. Undercoffer, where do you live?

A. Clearfield, Pennsylvania.

Q. Whereabouts in Clearfield?

A. 109 North 4th Street. 109 North 4th Street.

Q. How long have you lived in Clearfield?

A. Practically all my life.

Q. Are you married?

A. Yes.

Q. Do you live with your wife?

A. My wife and I have three children, all married.

Q. What are the ages of the children?

A. Well, I have a son 41, a daughter about 30, and a son about 33, approximately.

Q. Do they live in Clearfield?

A. No, one is in St. Mary's, one is in Lancaster — my daughter is in Lancaster and a son in St. Mary's and a son in Virginia.

Q. One got out of Pennsylvania?

A. Yes.

Q. And are you employed sir?

A. I'm retired, as of the first of the year.

Q. As of the first of 1970?

A. Yes.

Q. What did you do before that?

A. I was Office Manager for Pennsylvania Electric Company.

Q. How long did you have that job?

[855] A. I worked with Pennsylvania Electric Company for about forty years.

Q. Was that here in Clearfield?

A. Yes.

Q. May I infer from what you've been saying Mr. Undercoffer that you were born and raised around here?

A. That's right.

Q. Mr. Undercoffer, is your wife employed any place outside the home?

A. She runs the flower shop on North 4th Street – Undercoffer Florist.

Q. Is that her business?

A. Yes.

Q. Has she had that business for a long time?

A. About twenty years.

Q. Do you help around there much?

A. Occasionally.

Q. Mr. Undercoffer, are you familiar with the Yount situation?

A. Yes I am.

Q. You know about it?

A. Yes.

Q. And do you know any members of the Yount family?

A. No I don't.

Q. Are you acquainted with Mr. Reilly?

A. Yes I am.

Q. How do you happen to know him?

A. Well I guess everyone in Clearfield knows Mr. Reilly as the District Attorney.

Q. He's never served you as personal attorney, has he?

[856] A. No.

Q. Have you ever had occasion to deal with him as the District Attorney?

A. No.

Q. Is your knowledge of him just the fact that he happens to be the District Attorney?

A. I believe so yes. We've all known him. This is a small town and everybody knows most everyone else in the families. I know his family and know who they are.

Q. Are you active politically?

A. No I'm not.

Q. Do you belong to any social groups or social organizations?

A. Yes, the Lions Club; Elks; Commercial Travelers.

Q. Mr. Undercoffer, I assume that you have read the newspapers and heard the news broadcasts and television broadcasts concerning the Yount matter?

A. I don't think I have ever heard any TV lately but I have read the newspaper.

Q. I don't mean to restrict it to just lately – back from when this thing came up back about four years ago?

A. Yes.

Q. You remember that?

A. Yes.

Q. I suppose back at that time you were still working at the Pennsylvania Electric Company?

A. Right.

Q. You heard conversations, I presume, about the matter?

[857] A. Yes – yes.

Q. You heard people express opinions?

A. Yes.

Q. And I assume that on occasion you expressed your opinion as well?

A. Yes I have.

Q. Mr. Undercoffer I then ask you, do you have an opinion as to Mr. Yount's guilt or innocence as of now?

A. I would have to answer you in this way. I think that the Court first tried Mr. Yount and then decided he was entitled to a new trial and my opinion is that if the Court says he is then he is. He's entitled to a new trial. But if it were my son or my son-in-law who was a school teacher that was being tried I would want him to have every opportunity to prove his innocence. I believe this.

Q. You'd want him to have an opportunity to prove his innocence. Is that what you're saying?

A. Whether or not he was guilty or innocent.

Q. You'd want him to prove that?

A. Yes.

Q. Well, taking all of these factors into consideration as you have Mr. Undercoffer, would you give it a little bit of thought now and tell me whether or not you have an opinion as of right now, just based upon what you know and have heard and thought about. Do you have an opinion as of right now as to his guilt or innocence?

A. No. I think I would have to hear the testimony of both sides and I think I would form my opinion after I hear the testimony of both sides.

Q. Well, can you explain Mr. Undercoffer or tell me, what occurred [858] between the time that you did have an opinion and now so that now you tell me you do not have an opinion?

A. I think the fact that Mr. Yount has been granted a new trial the Courts feel he is entitled to a new trial—then they must have their reasons. We have to abide by our Courts.

Q. Mr. Undercoffer, do you feel that you would be able to brush completely from your mind any other thoughts or opinions you may have had in the past and set them completely out of your mind if you were asked to be a juror here and render a verdict only on the evidence that would be produced in Court? You'd forget completely about what you ever heard before and base it purely on what you heard in Court and render a verdict on that evidence alone? Would you be able to do that?

A. That's a hard question to answer.

Q. Take your time?

A. It's a little bit like the Court, if somebody makes a statement in Court, the Judge would say, strike that from the record. The jury would be supposed to forget about that. It would be a very difficult thing to do.

Q. It sure is. We have been trying to battle that one for years.

A. I believe for myself—I believe that I could. I would be capable of rendering a fair decision on what I had heard here. I have faith enough in myself.

Q. Mr. Undercoffer are you acquainted with any members of the State Police Department?

A. Yes I am.

Q. Can you tell me who you know?

[859] A. Bill Smith from Punxy.

Q. How do you happen to know him?

A. In relation with bird dogs.

Q. Bird dogs. Is he a bird dog raiser?

A. Well yes I guess. We belong to Beaver Meadow Field Club.

Q. You're a bird dog raiser too?

A. Yes.

Q. Do you know any other policemen?

A. I know Dean Spangler from Clearfield. We've all eaten lunch down to the Elks. I know him yes.

Q. Did you ever hear or were you ever in any discussions where you have heard either of these gentlemen discuss the Yount matter?

A. No.

Q. About how often do you see these gentlemen?

A. I haven't recently since I retired. I don't eat down there as often as I did and I've only eaten there two or three times down there since I retired.

Q. Since your retirement have you had more time to spend with the bird dogs?

A. No. I've been busier than before I retired. That's where I should be right now.

Q. What kind of activities do you follow since your retirement?

A. Well bird dogs are my favorite sport and pastime and I occasionally make a delivery for my wife or help when they get busy and we have remodeled a couple of apartments.

Q. Are they located here in Clearfield?

[860] A. Yes.

Q. Mr. Undercoffer, knowing all the people you know and the type of activity you follow or are engaged in and having heard people express opinions over the years as you have, do you have any kind of second thoughts about any criticism you might be subjected to if you were to maybe render a verdict or decision that you would know would not be in accordance with other opinions you have heard among your friends?

A. No.

Q. It wouldn't affect you at all?

A. Not at my age.

Q. Not at your age. Mr. Undercoffer, if you were to serve with us as a juror for a time, maybe you'd have to be here for a little while, a protracted little while, would it work any hardship on your wife or on you in any way?

A. No, no.

Q. Mr. Undercoffer, is there any reason that you know of that I may not have touched upon why you should not serve as a juror in this case?

A. I don't know of any, no.

BY MR. KING:

Pass the juror.

BY MR. REILLY:

Q. Mr. Undercoffer I am sure you were already asked if you know the defendant personally?

A. No.

Q. Or any members of his family?

A. No.

[861] Q. Do you know David Blakley from DuBois?

A. Yes I do.

Q. How long have you known Mr. Blakley?

A. Well, since I have been in field trial business. We formed a bird dog club about—I suppose about three years ago. Now, I have known of Dave—I believe Dave Blakley and Mr. Ammerman were in partnership together at one time. I knew the names Blakley and Ammerman but I wouldn't know Mr. Ammerman possibly. It's only three years he's belonged to the bird dog association.

Q. Do you ever talk to him or has he talked with you about the case?

A. I imagine it's been mentioned.

Q. Do you specifically recall any incidents where it was mentioned?

A. No.

Q. With your knowledge of David Blakley, your acquaintanceship with him over the past three years or before, would it in any way influence your opinion in this case if you were selected as a juror?

A. No.

Q. Do you know Mr. King or Mr. Sabino?

A. No I don't.

BY MR. REILLY:

Pass the juror.

BY THE COURT:

May I ask some questions—

Q. First, have you been called or served as a juror in the past?

A. No I never have.

Q. And are you acquainted with the Rimer family in any way?

[862] A. No I'm not.

BY MR. KING:

Defense accepts the juror.

BY MR. REILLY:

Commonwealth accepts the juror.

BY THE COURT:

Will you take juror's seat number 10 in the box where you will now be sworn.

Will the Clerk of Courts kindly swear the juror.

BY THE CLERK:

You do swear by Almighty God, that you will well and truly try and true deliverance make, between the Commonwealth of Pennsylvania vs Jon E. Yount, defendant, and a true verdict give according to the

evidence and that as you shall answer to God at the Great Day?

A. I do.

BY THE COURT:

Mr. Undercoffer, you are now, you have been sworn and seated in this jury and you will be sequestered from this moment on along with other jurors already selected and with those who will be chosen subsequently, if any.

Now, I want to direct that you not talk to anyone nor allow anyone to talk to you about this case or within your hearing without reporting such an incident to the Court if it comes to your attention. I would also tell you that tipstaves or anyone else are not permitted to discuss the case with you. The jurors in the same case may discuss the matter among themselves. Therefore, I would ask that you not allow anyone [863] else, tipstaves or otherwise to discuss the case with you or within your hearing. If so, you are to report it to the Court. I would also ask that you not make any attempts to contact anyone except through the tipstaves. For instance, if there are things you desire and there will be personal needs, put them on a list and they will bring that to the Court so the Court may pass upon it. Then they will see that your personal needs are brought to you. You are allowed no reading material, no radio or television, nor are you allowed to make any telephone calls of any kind. You will be sequestered at Holiday Inn at DuBois and there you will be quartered and fed except for lunch which you will receive in the Jury Room while you are here in Court. Therefore, will you kindly go to the

jury room now in charge of the tipstaves and matrons and will you make out your list so that they may obtain the things for you. If you desire the delivery of any message of emergency or important nature, you may write out a message, fold it so that the tipstaves can't read it, and they will then bring it to the Court for me to pass upon. They will be passed upon so you'll know who will read it—by both of counsel for Commonwealth and defendant as well as the Court. The tipstaves, of course, will not read it. Alright.

We will now recess for ten minutes.

10:40 a.m. Court recessed.

10:50 a.m. Court re-convened. Defendant in Court.

BY THE COURT:

Let the record note that in compliance with the Order of the Court the Sheriff has produced the Jury Wheel in the presence of counsel for defendant as well as the defendant himself, the District Attorney, the [864] two Jury Commissioners and the Secretary to the Jury Commissioners who were Ordered by this Court to be present at all times during the procedures involving the drawing from the said Wheel the 25 names in the presence of the Court.

It is now directed that the Sheriff proceed to see to the opening of the Jury Wheel with the Jury Commissioners producing the key and that the Sheriff draw therefrom 25 names.

(Names drawn)

* * *

[921]

* * *

ROBERT P. MURPHY called by the Clerk.

BY THE CLERK: Juror look upon defendant; defendant look upon juror.

You do swear by Almighty God, the searcher of all hearts, that the answers you shall make to the questions asked you concerning your qualifications as a juror, shall be the truth, the whole truth, and nothing but the truth, and as you shall answer to God at the Great Day?

A. I do.

BY MR. REILLY:

Q. Will you state your name?

A. Robert P. Murphy.

Q. Where do you live?

A. DuBois.

Q. Mr. Murphy, how long have you lived in DuBois?

A. Approximately 5 years.

Q. And by whom are you employed?

A. Penn State University.

Q. At the D.U.C.?

A. Yes.

Q. Are you an instructor there?

A. No, I'm a Business Manager.

Q. Are you married?

A. Yes I am.

[922] Q. Have you any children?

A. Yes, one.

Q. Would that be a boy or girl?

A. Girl.

Q. How old is she?

A. Seventeen.

Q. Mr. Murphy, do you know or are you acquainted with the defendant?

A. No I'm not.

Q. Or any members of his family?

A. No.

Q. Have you formed an opinion as to the guilt or innocence of this defendant?

A. No I have not.

Q. May I assume then Mr. Murphy, if you were selected as a juror you could go into the jury box and base your verdict solely on the testimony and evidence along with the instructions that the Judge would give you?

A. That's true.

Q. And that you would carry no opinion with you into the jury box?

A. No.

Q. Mr. Murphy, do you know Mr. David Blakley?

A. Yes I do.

Q. How long have you known him?

A. Known of him?

Q. Do you know him personally?

A. I met him on one occasion.

Q. Has he ever handled any legal business for you?

[923] A. Yes he has.

Q. Mr. Murphy, would your acquaintanceship or friendship with Mr. Blakley in any way influence your verdict if you were selected as a juror?

A. No it would not.

Q. Do you know Mr. King or Mr. Sabino?

A. No I do not.

BY MR. REILLY:

Pass the juror.

While they are debating—

Q. Did I ask you Mr. Murphy if you know or are you acquainted with the defendant?

A. Yes.

Q. And your answer was no?

A. Correct.

Q. And you know no members of his family?

A. No.

BY MR. SABINO:

Q. Mr. Murphy for how long a time have you been employed by Penn State University?

A. Approximately five years.

Q. And prior to your living in DuBois, which I think was about five years ago, do those two dates – is that coincidental?

A. Coincidental, yes.

Q. You came to DuBois to work, is that correct?

A. Yes.

[924] Q. And where did you live before?

A. Center Hall, Pennsylvania. Approximately 70 miles from DuBois.

Q. For whom were you working at that time?

A. Nationwide Mutual Insurance Company.

Q. Have you read about this matter in newspapers?

A. Yes I have.

Q. Both some time ago and recently?

A. Yes.

Q. And, of course, I trust you also heard about it on the radio and so forth?

A. Yes.

Q. Have you been in discussions or heard discussions where the guilt or innocence of Mr. Yount was the subject?

A. No, not really.

Q. Have you ever heard anyone express to you an opinion as to Mr. Yount's guilt or innocence?

A. I would say no. I would say no to that question, as to guilty or innocence.

Q. Pardon?

A. I would say no to that question.

Q. With respect to the newspaper presentations, you were able to read these newspapers and so forth without forming any opinion of your own. Is that right?

A. I would say yes. I was in no position to judge one way or another.

Q. In other words, are you saying before you can make a decision you want to see the facts yourself, is that right?

[925] A. Definitely.

Q. Mr. Murphy are you acquainted with any members of the Rimer family?

A. No I'm not.

Q. Are you acquainted with any members of the Pennsylvania State Police?

A. Any members of the Pennsylvania State Police?

Q. Yes?

A. Yes I am.

Q. Can you give me their names?

A. Leonard Washkavitch.

Q. Is that the only one?

A. Harry Ellenberger.

Q. Now, are you acquainted—in your acquaintanceship with these individuals—how do you come to know them?

A. I know many more than that but the acquaintances comes from the fact as an Insurance Adjustor I would—I had a lot of contact with them as far as State Troopers in the DuBois area. I began with the two or three I know and from association with other members of their families, not necessarily with them.

Q. Would you characterize your acquaintanceship with Mr. Washkavitch and Mr. Ellenberger as a close relationship?

A. No.

Q. Have you ever been present when the matter of Jon Yount was being discussed by any of these people?

A. No.

Q. Are you familiar—are you aware as to whether or not any of [926] the State Police whom you know have anything to do with the Yount matter?

A. No. I have no knowledge that any I know had anything to do with it.

Q. Can you give the names of some of the others you know?

A. Corporal Barnes who is now retired. Joe Reo, Bill Yobbs. There are others I know that are not in

this area at the present time—either retired or some have gone into the service.

Q. Mr. Murphy are you aware as to where Mr. Yount has been for the past four years?

A. No sir. I would assume possibly he has been in the East State Penitentiary rather than the Western—but I don't know.

Q. For how long were you an Insurance Adjustor with Nationwide Insurance Company Mr. Murphy?

A. Two different times. Six years on two different occasions.

Q. Total six years at two different times?

A. Yes.

Q. Was it interrupted by something?

A. Yes.

Q. Another job?

A. Yes.

Q. What was that?

A. Gavich Manufacturing.

Q. And the office you worked out of at Nationwide, was that at Center Hall?

A. I worked out of Harrisburg.

Q. Was there any particular reason why you assumed that Mr. Yount [927] was in the Eastern rather than the Western Penitentiary?

A. Not really.

Q. Just no reason?

A. No.

Q. You're not aware as to what district Clearfield is in, whether it's in the Eastern or Western district?

A. No, I'm sorry.

Q. Do you belong to any social clubs Mr. Murphy?

A. Lions Club. DuBois Area Lions Club.

Q. Any others?

A. No sir.

Q. Do you have any hobbies or other ways to occupy your time when you're not at work?

A. Yes.

Q. What is that?

A. Fishing and hunting.

Q. Are you a rather avid fisherman?

A. Yes sir.

Q. Where do you most of your fishing in this area?

A. Potter County, Center County, Elk County, Cambria County and Delaware—the State of Delaware.

Q. Do you generally do this fishing alone or with a group of other fellows?

A. Generally with my wife.

Q. With your wife?

A. And—yes and generally two other gentlemen.

[928] Q. Does your daughter live with you?

A. Yes.

Q. Does she go to high school?

A. Yes, DuBois Area High School.

Q. Does your wife work?

A. Yes she does.

Q. Where is she employed?

A. Yost Associates Incorporated in DuBois.

Q. What is that Mr. Murphy—what kind—

A. Consulting engineers—what kind of work
does the firm do?

Q. Yes?

A. A consulting engineering firm.

Q. What does your wife do?

A. She's a Secretary.

Q. Do you have any other relatives in this
vicinity?

A. Clearfield County?

Q. Yes?

A. No.

Q. Are your relatives—were you born and raised
in Centre County?

A. Yes sir.

Q. Have you ever heard your wife express an opinion as to Mr. Yount's guilt or innocence?

A. No sir.

Q. You don't know whether or not she has one?

A. No sir.

Q. Have you ever heard—do you know whether or not your daughter [929] has an opinion as to Mr. Yount's guilt or innocence?

A. No sir.

Q. You don't know or you know that she does not?

A. I don't know if she does or not.

Q. Mr. Murphy are you aware of Mr. Yount's occupation before this matter occurred?

A. Yes sir.

Q. And what was that?

A. School teacher.

Q. And were you aware as to where that was?

A. DuBois High School or Jr. High School—I think it was High School.

Q. Do you have any particular connection with the High School other than that your daughter goes there?

A. No sir.

Q. However, you are connected with education—you're Business Manager for Penn State at DuBois?

A. Yes sir.

Q. Would those factors have any influence on a decision that you might render in this case if you were a juror?

A. No sir.

Q. Mr. Murphy, have you ever fished with Mr. Washkavich or Mr. Ellenberger?

A. No sir.

Q. Can you give me an estimate as to how many times you might have been in the company of these two gentlemen?

A. Over what period of time?

[930] Q. The last four or five years and since you have been here in DuBois?

A. I would estimate maybe 5 or 6 times.

Q. Each or total?

A. Between the two.

Q. In the times when you were with them — were the three of you together?

A. No.

Q. You were with them individually?

A. Yes.

Q. What was the occasion for your acquaintanceship or your meetings — these incidents you just related when you were in company with them? What was the occasion for that?

A. With Ellenberger it's the fact that he belongs to the Lions Club in DuBois. With Washkavich — since

I've been in Clearfield County it's simply been I've run into him on different occasions while he was on the patrol or on his off duty hours.

Q. Has this matter been the subject of any discussions either by Mr. Ellenberger or others at the DuBois Area Lions Club meetings at any time?

A. No sir.

Q. Would your employment or is there anything about your employment or any situation at home which would be adversely affected by your becoming a juror in this case and being away from home and your job for a protracted time?

A. No sir, not really.

Q. Other than you would be a little unhappy about it?

[931] A. Quite possibly if it would run into hunting season.

Q. You hunt also?

A. Yes sir.

Q. Did you have your plans made for hunting this year?

A. Most generally everybody does, yes.

Q. Did you plan to hunt with others?

A. Yes, one or two others.

Q. When does that begin?

A. November 30th.

Q. Do you think your anxiety with respect to getting out for hunting season would have any affect on the ability to judge this situation?

A. No sir.

BY MR. REILLY:

I'm sorry, was that answer no?

A. That is correct.

BY MR. SABINO:

Q. Is there anything else Mr. Murphy, which during my questioning I may have neglected to mention that you are aware of which in your mind would cause you to think that perhaps you should not be a juror in this case—do you understand the question?

A. Yes. There's nothing that I know.

Q. No factors that you are presently aware of that you—that might cause some influence on a decision you might render here?

A. No sir.

Q. I don't know if I asked you this before but did you ever have an opinion about the case at any time—back when it happened or at [932] any time throughout since it happened—did you ever have an opinion about the guilt or innocence of Mr. Yount?

A. No sir. The only opinion I had was about local newspapers.

Q. What?

A. The opinion I had was about local newspapers in the area.

Q. If you don't mind me asking what was your opinion about the local newspapers?

BY MR. REILLY:

Well I think, Your Honor, at this point we will have to object.

BY THE COURT:

Objection sustained. It goes beyond the purposes of voir dire. Voir dire is for the purpose only for determining qualification or disqualifying jurors and we think his opinions concerning the case are very pertinent naturally, and you have been allowed wide voir dire but what he might have thought about the newspaper—therefore, we sustain the objection.

BY MR. SABINO:

Q. Is what you said that you had the opinion about the newspapers and not about the case?

A. That is correct.

Q. And what you read in the newspapers did not cause you to get an opinion about the case itself?

A. No, just about the newspapers.

Q. Do you have any feelings one way or another whether you would like to be on the jury?

A. Yes, I said I don't particularly care for it. I think it's going [933] to involve quite a bit of time and again in relationship to the case itself—this is possibly once in a lifetime for the individuals involved here. I'm concerned with hunting season which is relatively unimportant with respect to the overall picture.

Q. I'm not sure whether I heard.

A. Yes. I have feelings about it as far as being here. You're talking possibly in two, three or four weeks.

Q. Do I understand you wouldn't particularly — correct me if I'm wrong — do I understand you don't particularly want to do it because of the inconvenience and hardship to yourself?

A. It's no hardship but it is inconvenient.

Q. You're not too thrilled about it?

A. No, I'm not too thrilled about it.

Q. But do you think that would affect your decision.

BY MR. SABINO:

Pass the juror.

BY MR. REILLY:

Commonwealth accepts the juror.

BY MR. SABINO:

Defense accepts the juror.

BY THE COURT:

The Clerk of Courts will kindly swear the juror.

BY THE CLERK:

You do swear by Almighty God, that you will well and truly try and true deliverance make, between the Commonwealth of Pennsylvania vs Jon E. Yount, Defendant, and a true verdict give according to the

[934] evidence and that as you shall answer to God at the Great Day?

A. I do.

BY THE COURT:

Mr. Murphy, you have now been seated and, of course, sworn as a juror in this case and we would ask you not to discuss this case with anyone nor allow anyone to discuss it with you or within your hearing. If any of these things occur, please report them to the Court. Of course, members of the jury may among themselves—members of the seated jury may discuss the case among themselves but no one else. Even tipstaves who are here to serve you will not be allowed to discuss the case with you. However, they are there to serve you. They are to obtain your personal needs and, of course, you will at the very outset—will make a list of your personal needs for them to obtain for you. If you should have any messages of any kind they cannot be given to any one except that you write out a message, give it to the tipstaves, they will deliver it to the Court and the Court will present it to the attorneys before any answer is given as to whether or not it may be delivered. We would ask that you understand that you will be deprived of radio, television, and telephone. No one is able to contact you personally nor are you allowed, during the course of this case. Therefore, we ask that you be patient with the situation and I might even add courageous but that's how things are. We try to make things as comfortable as possible. We think the quarters are comfortable. They are at the Holiday Inn in DuBois where you will receive your morning and evening meal. Your lunches

will be served in the Jury Room and the tipstaves, of course, will provide [935] you with that lunch. When you are sent to the Jury Room now would you proceed then to prepare the list of things you will want. Likewise, if you need your car delivered, in case you drove over here in your car and there is no one else to get it back for you, contact the tipstaves, and Sergeant Gordon will deliver your car for you. If that's in your mind, kindly inform the tipstaves. Alright.

The Clerk of Courts will kindly draw another juror.

* * *

[987]

IRENE KURTZ called by the Clerk.

BY THE CLERK: Juror look upon defendant; defendant look upon juror.

You do swear by Almighty God, the searcher of all hearts, that the answers you shall make to the questions asked you concerning your qualifications as a juror, shall be the truth, the whole truth, and nothing but the truth, and as you shall answer to God at the Great Day?

A. I do.

BY MR. REILLY:

Q. Will you state your name please?

A. Irene Kurtz.

Q. Mr. Kurtz?

A. Yes.

Q. Where do you live?

A. Mahaffey.

Q. How long have you lived there?

A. Eleven years.

Q. Prior to that where did you live?

A. Ohio.

Q. Is your husband employed in Mahaffey?

A. No, Pittsburgh.

Q. What does he do?

A. Lineman – construction.

Q. Do you have any children?

A. Yes, one.

Q. Boy or girl?

A. Girl.

[988] Q. How old?

A. Seventeen.

Q. Mrs. Kurtz, do you know or are you acquainted with the defendant?

A. No.

Q. Or any members of his family?

A. No.

Q. Have you formed an opinion as to the innocence or guilt of this defendant?

A. No.

Q. If you were selected to sit as a juror, would you be able to base your verdict solely—only on the testimony and evidence you would hear and the instructions the Judge would give you?

A. Yes.

Q. And that no prior information or idea you may have would enter into your deliberation?

A. No.

Q. Mrs. Kurtz, do you David Blakley, attorney for the defendant?

A. No.

Q. Or Mr. King or Mr. Sabino?

A. No.

Q. Do you live right in the Village of Mahaffey?

A. Yes.

Q. Or is that a Borough?

A. Borough.

BY MR. REILLY:

Pass the juror.

[989] BY MR. SABINO:

Q. Mrs. Kurtz, did I understand you have one child, a girl 17?

A. Right.

Q. And does she live at home with you?

A. Yes.

Q. Is she in high school?

A. Yes.

Q. What high school does she attend?

A. Purchase Line.

Q. Where is that?

A. Indiana County, toward Indiana.

Q. And are you employed?

A. Yes.

Q. Where are you employed?

A. G. C. Murphy in Punxy.

Q. Does Mr. Kurtz commute every day to Pittsburgh?

A. No, he stays away.

Q. He stays in Pittsburgh and comes home—

A. On weekends.

Q. Do you know the name of the company with whom he is employed?

A. H. P. Foley Construction.

Q. Do you belong to any organizations, social clubs, women's clubs or anything of that kind?

A. No.

Q. No clubs?

A. No.

[990] Q. You don't have a tendency that way or you don't have the time?

A. I don't have time.

Q. How do you occupy most of your time?

A. When I work five days a week and keep up the home—and I have a mother dying of cancer—I—in between times have to help them.

Q. Where does your mother live?

A. About three miles from me, Mahaffey R D.

Q. Have you been spending considerable time with her as well as at home?

A. I don't stay. Just back and forth.

Q. Were you working for G. C. Murphy in Punxsutawney in 1966?

A. No.

Q. For whom were you working at that time?

A. I wasn't working at that time.

Q. Was Mr. Kurtz working in Pittsburgh at that time?

A. That's hard to say. I can't—he goes here and there and everywhere. I can't tell you.

Q. Do you recall reading about this situation some time back a few years ago?

A. Yes I read it.

Q. You did read it?

A. Yes.

Q. Did you follow it very closely?

A. No I did not.

Q. Did you also hear reports of it on the radio or television?

A. I wasn't too concerned so I didn't pay too much attention to it.

[991] Q. Was there any reason why you weren't concerned about it. Were you doing other things or what?

A. No. I read it and forgot it. I didn't pay any more attention.

Q. Well, the time when you were reading it, did you have any feeling or idea at that time about the guilt or innocence of the defendant?

A. No.

Q. You did not?

A. No.

Q. The papers did not tend to persuade you one way or another?

A. No.

Q. Were you—are you acquainted with any members of the Pennsylvania State Police?

A. No.

Q. Are you acquainted with any other police officials or local police or otherwise?

A. No.

Q. Do you have any other family besides your mother in this vicinity or County?

A. Yes. I have two brothers and a sister.

Q. Where are they living?

A. The two brothers are in Clearfield County and the sister is in Jefferson County.

Q. The brothers in Clearfield County—do you know the borough or town?

A. One is in Mahaffey R D and the other is Glen Hope.

Q. What do they do for a living?

A. One is—works for Benjamin Coal Company and one is in business [992] for himself as a dairy farmer.

Q. Have you ever had any occasion to hear any opinions expressed by others concerning the guilt or innocence of Mr. Yount?

A. No.

Q. Have you ever heard discussions about the matter where opinions were expressed?

A. I haven't. No. Just never talked about it.

Q. This—was this a conscious effort on your part to avoid talking about this or was this just happenstance?

A. I didn't avoid it—I just never talked about it.

Q. It wasn't because of the situation and what you read about it that you avoided it. Is that right?

A. That's right.

Q. Your sister that lives in Jefferson County—what town?

A. Punxsutawney.

Q. And you drive yourself back and forth to the G. C. Murphy Company in Punxsutawney every day?

A. Yes.

Q. Now, is there anything at home or with your own personal situation that would make it difficult for you to serve on a jury which might be—that might keep you away from home for a protracted time—away from your home and job for a protracted time?

A. Is there what?

Q. Is there anything that would make it difficult for you to be away from your home or job—would that be difficult for you?

A. No.

[993] Q. Your daughter could carry on?

A. I think she could.

Q. As I understand there is just you and your daughter living at home?

A. Yes at home.

Q. Are you familiar with Mr. Yount or any member of the Yount family?

A. No.

Q. Are you familiar with any members of the Rimer family at Luthersburg?

A. No.

Q. Are you acquainted with any people who are familiar with either the Yount or Rimer family?

A. No.

Q. Have you ever been summoned to serve as a juror before?

A. In civil court, yes.

Q. When was that?

A. Three years ago.

Q. Did you serve?

A. Yes.

Q. Are you acquainted with Mr. Reilly, the District Attorney?

A. I know who he is, that's all.

Q. How do you know him?

A. From living in Clearfield County.

Q. Have you ever met Mr. Reilly?

A. No, not personally.

Q. When you say you are acquainted with him, you merely know who he is from pictures. Would you know him if you saw him on the street?

A. Yes, from the last time I was here on civil court.

[994] Q. And the last time did Mr. Reilly try any cases in which you sat as a juror?

A. I didn't sit as a juror. I was back there.

Q. You were spectating?

A. Yes.

Q. And Mr. Reilly tried a case you saw?

A. Yes.

Q. Are you acquainted with Mr. Fennell?

A. No.

Q. The Assistant District Attorney?

A. No.

Q. And you've already stated you are not acquainted with any members of the State Police?

A. Right.

Q. You don't recognize any of the other people in here?

A. No.

Q. For how long a period of time did you serve when you were here three years ago?

A. Three days I do believe.

Q. Have you ever seen Mr. Reilly other than the time you saw him try the law suit in Court?

A. I saw him on the street when I come to town.

Q. Do you come to town very often?

A. Not to Clearfield no.

Q. When you saw him on the street was it in Clearfield?

A. Yes.

[995] Q. And the times you have been here you have seen Mr. Reilly?

A. Occasionally, yes.

Q. Have you had occasion to have any discussion with him?

A. No.

Q. Mrs. Kurtz, where were you when you were summoned to Court to appear today or yesterday?

A. Indiana. I went to Indiana with a girl friend from work.

Q. And who summoned you to come today to Court, do you recall?

A. My daughter gave me the message.

Q. I see. You mean you were not personally served?

A. I wasn't at home, no.

Q. With the summons to appear here?

A. Right.

Q. And did your daughter call you in Indiana and tell you to come home?

A. No.

Q. She just showed it to you when you got home?

A. Yes.

Q. So the only person at home was your daughter when the Deputy came?

A. Yes.

Q. And when did you first appear—was this morning your first day?

A. Yes, this morning.

Q. Did your daughter say when he first came?

A. She didn't say what time or anything.

Q. And you drove over here yourself this morning?

A. Yes.

Q. Would you prefer to be or not to be on the jury in this case?

[996] A. I think I would rather not be.

Q. Can you give me or formulate a reason why you wouldn't like to be—

BY MR. REILLY:

Well Your Honor, this is all irrelevant.

BY THE COURT:

I think so but I will allow the question.

A. Why I wouldn't like to be?

Q. Yes.

A. First because of my job. That's really the main reason.

Q. Do you have any other reasons?

A. No.

Q. Do you think your job may be jeopardized by your being away?

A. It would depend on how long I was away.

Q. Would you be concerned about that during your service as a juror, both in Court and during deliberations—would you be concerned about the possibility—would you be concerned about your job?

A. I don't think I'd worry about it.

Q. Is there anything—I have been asking you questions for the last 10 or 15 minutes but I often forget a lot of things. Is there anything you are personally aware of, in your own mind, that would give you a reason to think you should not be a juror in this case?

A. No, nothing that I can think of.

Q. Mrs. Kurtz, would your having seen Mr. Reilly in Court briefly, or what your acquaintanceship, such as it is—do you think it would influence any decision you might render in this case?

A. No.

[997] BY MR. SABINO:

Pass the juror.

BY MR. REILLY:

Commonwealth accepts the juror.

BY THE COURT:

The Statute under which we previously operated has been suspended insofar as it applies to criminal trial in the Court of Quarter Sessions and General Jail Delivery of any county. It appears in a statement in fine print below Rule No. 1109. In Rule 1109 it is further stated: All peremptory challenges remaining unexercised after the selection of the principal 12 jurors shall be considered as exhausted and in no case may the challenges reserved for the selection of alternates be added to the number allowed during the principal 12.

May I ask, for the record, of the District Attorney—does he intend then exception or assignment of error by virtue granted with the right to peremptory challenge the last juror previous to this, to the defendant?

BY MR. REILLY:

Well, I'm not going to move for a withdrawal of a juror for a mistrial. No sir, Your Honor, we do not challenge that.

BY THE COURT:

Therefore, we have—you waive that requirement insofar as the last juror was concerned. Do you waive it as to any other peremptory?

BY MR. REILLY:

I do Your Honor.

[998] BY MR. REILLY:

Do I understand then, Your Honor, since the Commonwealth has accepted this juror she may be seated.

BY THE COURT:

She may be. I mean the last juror.

BY MR. REILLY:

We—yes, I can appreciate that—

BY THE COURT:

I wanted to declare this before there was any exercising of any challenge as to this juror. What I'm referring to applies to the previous juror who was peremptorily challenged and permitted,

although the Rule provides that it can't be used. Do you waive any objection to that having been done?

BY MR. REILLY:

Yes I do.

BY THE COURT:

Not as to anything else, of course.

BY THE COURT:

You may proceed as to this juror.

BY MR. SABINO:

I understand what the Court has read.

BY THE COURT:

You don't have a peremptory challenge.

BY MR. SABINO:

Are you saying your ruling in the pre-trial was in error?

[999] BY THE COURT:

And it was in error today until I began to think that I did read this and it is so stated in Rule 1109. It solidified the practice in Pennsylvania—permitting exhaustion or use of the 20 peremptories as to the original 12 and not permitting the assignment of any peremptories to any of the original 12 which are allowable only as to alternates. If exercised they must be exercised prior to the alternates.

BY MR. SABINO:

That being the case, we are without a challenge, as I understand.

BY THE COURT:

You are not challenging under cause—that was the only challenge?

BY MR. KING:

Well, we make a challenge for cause.

BY THE COURT:

Challenge for cause is denied.

Let the record note that there is no exercise of peremptory challenges as to this juror by reason of the fact that the defendant has exhausted the peremptory challenges allowed under the law.

BY THE COURT: (To witness)

You may take Juror Seat Number 12 and be sworn.

BY THE CLERK:

You do swear by Almighty God, that you will well and truly try and true deliverance make, between the Commonwealth of Pennsylvania vs Jon E. Yount, defendant, and a true verdict give according to the evidence and that as you shall answer to God at the Great Day?

A. I do.

[1000] BY THE COURT:

You have been seated and sworn as a juror in this case of Commonwealth against Jon E. Yount. We ask

that-that you not discuss this case with anyone nor allow anyone to discuss it with you or to discuss it within your hearing except members of the same jury, without reporting such a matter to the Court if it should come to your attention.

You will not be allowed any reading material or radio or television. However, we have the tipstaves and matrons who are here to serve you at all times. They will serve you during the 24 hour period of each day and whatever your personal needs or wants may be you may communicate them to them. They, too, cannot talk to you about the case nor are you allowed to talk about it with them because they have no part in the case anymore than anyone else would have. We ask that you make a list of your personal needs and also if you drove a car over here, we will provide for someone to take that car to your home for you. You may let the tipstaves know about that and give them the keys and it will be taken care of. No messages may be delivered except through the Court. Therefore, you may give any message to the tipstaves in writing but they will be passed upon by the attorneys, both defendant and Commonwealth attorneys and the Court before the Court will take any action. I tell you that so you will know it will be read by all of us before anything will be done in that regard.

We do hope you will exercise patience and consideration. We hope that the quarters and food will be suitable for you. You will be quartered at the Holiday Inn in DuBois where you will be fed two meals a day and you will also sleep there. Your lunch, of course, will [1001] be provided in the Jury Room.

Alright, you may be taken to the Jury Room, there to make your list so that the tipstaves may take care of that.

We will proceed to call the first alternate juror.

(Off record discussion)

The Court will rule that as to the alternate jurors, each of the parties shall have two peremptory challenges.

* * *

[1118]

* * *

JOHN T. HARCHAK called by the Clerk.

BY THE CLERK: Juror look upon defendant; defendant look upon juror.

You do swear by Almighty God, the searcher of all hearts, that the answers you shall make to the questions asked you concerning your qualifications as a juror, shall be the truth, the whole truth, and nothing but the truth, and as you shall answer to God at the Great Day?

A. I do.

BY MR. REILLY:

Q. Will you state your name?

A. John T. Harchak.

Q. Where do you live?

A. R D Houtzdale.

Q. Mr. Harchak, how long have you lived there?

A. Thirty years.

Q. Are you married?

A. Yes.

Q. Have you any children?

A. One.

Q. Boy or girl?

A. Boy.

Q. How old is he?

A. Eighteen months?

[1119] Q. Mr. Harchak, do you know or are you acquainted with the defendant in this action?

A. No I do not know him.

Q. Or any members of his family?

A. No I do not.

Q. Have you formed an opinion as to the guilt or innocence of this defendant?

A. No I haven't.

Q. Mr. Harchak, if you were selected as a juror in this case, would you be able to enter the jury box and base your verdict of guilty or innocent only on the evidence and testimony that you would hear along with the instructions that the Judge would give you?

A. Yes.

Q. And you would have no other influencing factors in arriving at your verdict?

A. No, other than the testimony I would hear in this Court Room.

Q. Mr. Harchak, do you know David Blakley, an attorney from DuBois?

A. I do not.

Q. Do you know Mr. King or Mr. Sabino?

A. No I don't.

BY MR. REILLY:

Pass the juror.

BY MR. SABINO:

Q. Mr. Harchack, are you employed?

A. Yes.

Q. By whom?

[1120] A. Department of Transportation — Highway.

Q. And is that the Commonwealth of Pennsylvania?

A. Yes, Department of Transportation.

Q. For how long have you been so employed?

A. Will you repeat that?

Q. How long have you been so employed by the Commonwealth?

A. Since 1963.

Q. And for whom did you work prior to that time?

A. Harchack and Lucas Coal Company and I was self-employed for a period of a few years.

Q. In the coal business?

A. Yes.

Q. Where is your Home Office of the Department of Transportation?

A. Out of Clearfield, District 20.

Q. For—what do you do?

A. Construction Inspector II. We inspect road building.

Q. Does your wife work?

A. No.

Q. How long have you been married?

A. Five years.

Q. And you just had your first child eighteen months ago?

A. Yes.

Q. Have you always been in Clearfield County—always resided in Clearfield County?

A. Yes.

Q. Around Houtzdale area?

[1121] Q. You were employed by the Department of Transportation working out of Clearfield in 1966 were you?

A. '63.

Q. And in '66 you were also?

A. Yes—yes. I didn't say in Clearfield County. We have an eight county area we cover and in '66 I

could have been—it's pretty hard—I think at the time I was in State College or in Centre County area at that time.

Q. Every day you go there from your home?

A. Yes, we could either go there or communicate.

Q. Now, do you know any members of the Rimer family of Luthersburg?

A. No I do not.

Q. You know the connection between Yount and Rimer?

A. Yes and no. I've heard about it. I'd have to answer yes and no.

Q. You—have you ever heard the name Jon Yount?

A. Yes back—this was—right here today but back a few years ago I seen it in the papers.

Q. And do you remember the name Rimer as in connection with that case?

A. Yes—yes.

Q. Now, did you ever read about the situation concerning Mr. Yount?

A. At the time I would occasionally pick up a paper and glance through it. I never did get the paper—not a daily paper.

Q. You never got one at home?

A. Yes, we never got a daily paper at home and if I got one I might scant something or read it to know what was in it.

Q. In the course of your employment with the Department of Transportation [1122] have you run in to some people who discussed the Yount or Rimer matter?

A. To the best of my knowledge I would say no.

Q. You haven't heard any discussions about it?

A. I would have to say no.

Q. Couple of people, or one or two, together somewhere talking about it?

A. No, I would say I have never discussed it with anyone or anybody around me never. It was just never mentioned.

Q. But you do recall reading about it somewhat at the time?


A. Yes.

Q. Do you know whether or not you ever had an opinion at any time concerning the guilt or innocence of Mr. Yount?

A. No I never had an opinion because I never knew the facts.

Q. Did you say — what you're saying — the reason is you didn't have an opinion was because you didn't know the facts?

A. Yes. If I had followed it up in the newspaper I probably would have been able to pass an opinion, but I might have seen one thing and a couple of days seen something else so I truthfully couldn't pass an opinion on it.



Q. Well now, keep in mind, when we ask if you have an opinion, we don't ask you whether you know whether he is guilty or innocent, or if you know enough about it to substantiate a decision. Just opinion now, your opinion, impression, or feeling as to whether he might be innocent or guilty. I'm not asking what your decision might be in the case or whether you know enough to make a decision. I'm just asking you on the basis of what you do know—if you have a feeling [1123] or impression about Mr. Yount's guilt or innocence?

A. No.

Q. Mr. Harchak, are you acquainted with any members of the Pennsylvania State Police?

A. Yes.

Q. Would you give us the names of those people?

A. I have an Uncle, Andrew Harchak, a State Policeman.

Q. Does he hold rank in the State Police?

A. He does but I couldn't tell you what it is right now.

Q. Since he's your Uncle I assume he's a little older than yourself. Has he been in the Police for a long time?

A. Roughly, I'd say twenty-three years.

Q. Any other members of the State Police of whom you are acquainted?

A. No.

Q. You do not come in contact with Pennsylvania State Police in your employment with the Department of Transportation?

A. No, I do not.

Q. Have you ever heard your Uncle discuss the matter of Mr. Yount?

A. No.

Q. Do you see your Uncle pretty often?

A. Just depends—I might see him once a month. Sometimes driving, but as far as talking to him—once a month—rarely.

Q. Do you think the fact that your Uncle is a member of the State Police would influence a decision you might render in a criminal case?

A. No.

Q. Would you be willing to sit on a jury which—and make a decision [1124] which might be contrary to an opinion which might be held by your Uncle?

A. Would you repeat that?

Q. Do you feel that you could serve on a jury and render a decision which you know or may feel would be contrary to an opinion of your Uncle?

A. No.

Q. I'm sorry, do you mean no you would not be influenced or no you could not be on a jury and render a decision?

A. I could be on a jury.

Q. Yes?

A. It wouldn't influence me.

Q. You could render a decision which you know might be contrary to your Uncle's opinion?

BY MR. REILLY:

I think that's an objectionable question. He's already indicated that his acquaintanceship or relationship to—

BY THE COURT:

I believe it might be a proper question. I want it, but more clearly. I don't think the witness understands it.

Q. May I ask you this. If you knew your Uncle to have an opinion about a case—this case—

A. Yes.

Q. Yes and you were on the jury, could you come to a conclusion contrary to your Uncle's opinion?

A. No, what his opinion would be and what mine would be—

Q. You wouldn't be bound—

[1125] A. No, not by my Uncle's saying one way or the other. I'd have to base my own opinion on what I would hear in this Court Room.

Q. Mr. Harchak, are you a member of any clubs, social clubs, or fraternal organizations?

A. Yes.

Q. Which?

A. A social club?

Q. Yes?

A. Well, I belong to the Veterans Administration. That's actually the only one I belong to.

Q. Do you have any—do you mean the Veterans of Foreign Wars?

A. Yes.

Q. Do you—what do you do—or do you have any hobbies or activities you take up other than your employment?

A. Interested in hunting—sports.

Q. Do you follow this hobby pretty well?

A. When the seasons are in—mostly hunting. Not fishing or nothing, strictly hunting.

Q. Mr. Harchak, are you aware of any hardship you might undergo health-wise or family-wise which might occur as a result of your serving on a jury and being away from your home and job for a protracted period of time?

A. Would you repeat that please?

Q. Would your serving on a jury create any hardship insofar as your own health or your family's health or your job if you were to be on a jury and be with us and away from your home and job for a certain amount of time?

[1126] A. No.

Q. May I ask if you would prefer or not prefer to be on a jury of this case?

A. I don't know how to answer that question, because I was under the impression that when I was subpoenaed to be here to be picked that it was up to the attorneys to decide whether they figured I'm capable to be on the jury.

Q. That's true. My question is do you have any preference—would you like to be on the jury?

A. Yes.

Q. You would?

A. Yes.

Q. Is there any particular reason why you would like to be on the jury?

A. No. I was subpoenaed to be here and I feel if I'm selected I would. I don't want to—back that up a little bit—

Q. My question is, would you like to be on the jury?

A. Yes.

Q. My next question was—was there any particular reason why you want to be on the jury?

A. No.

Q. Why would you rather be on the jury than not be on the jury?

A. I figure—like I said—as a taxpayer of this County—that is my duty or obligation once I'm selected as a jury.

Q. You have a duty to be on the jury?

A. Not on the jury—to be picked until you go onto the jury or until—whether you're picked or not picked.

[1127] Q. I'm sorry, I lost you on that.

A. Like I said. When I was subpoenaed to be here and my name drawn from the Wheel I appeared here. As far as being on this case I would prefer to be on it.

Q. And I'm not sure whether or not you answered my last question. If you did I missed it about why or—do you know why you would like to be on the jury—keep in mind why you would like to be on the jury, not why you showed up here by subpoena like a law abiding citizen?

A. I don't know why. It's—it's not for me to decide whether I'm on that jury or not.

Q. Are you acquainted with Sheriff Charney?

A. No, I know Mr. Charney.

Q. Who—when did you receive your notice to appear here today?

A. It was about 12:55 or 1 o'clock p.m. Saturday.

Q. By whom were you served the—

A. The Sheriff, William Charney.

Q. And was there any conversation between you and Mr. Charney at that time concerning your service here?

A. No.

Q. Did he—he merely gave you the notice?

A. He came to the house—Mr. Charney happened to stop at my father's house and he walked in and said, congratulations, and zappo—and he said immediately, and I said—you're kidding and when I opened it it said right on there—and I came down here.

Q. Did you come by yourself?

A. Yes.

[1128] Q. Did Mr. Charney leave before you left?

A. Yes.

Q. Are you acquainted with Mr. Reilly, the District Attorney?

A. I know of Mr. Reilly.

Q. How do you know Mr. Reilly?

A. Well, he has taken care of some business for us in his private—

Q. He has taken care of some private law business for you?

A. For an organization.

Q. What organization?

A. The Morann Citizens Club. That's one I forgot.

Q. It's an organization you forgot to mention to us?

A. Yes.

Q. Are you an active member of the Morann Citizens Club?

A. Yes.

Q. Do you hold an office?

A. Yes.

Q. What office?

A. President.

Q. You're the President of the Morann Citizens Club?

A. Yes, right.

Q. And you forgot to mention that when you mentioned you were a member of the VFW?

A. We just held our election of officers. Actually, I'm not President now. It takes effect the 1st of the year. Right now, I'm a Trustee.

Q. Now, you're President Elect?

A. Yes, since October. I was elected in October.

[1129] Q. How many members does that organization have?

A. I think 68 regular members and I think there's 96 social members. That's to the best of my knowledge.

Q. And what does this Club do?

A. It's just for the citizens in the area—just a local club. They give out Christmas trees to the children and for Halloween they give out different treats for the kids.

Q. Do you have a club house or a meeting place?

A. In the back end of the place.

Q. What place?

A. Morann Citizens Club, there's a bar in one place and the back room. It used to be a dance hall.

Q. And how long have you been a member of that Club?

A. Nine years.

Q. During that time you never heard anybody in that Club at any meetings or otherwise discuss the Yount case?

A. No, I didn't hear.

Q. Are you aware of any feelings or opinions held by members of that Club—are you aware of the feelings of the members in that club towards this case?

A. No.

Q. Do you have to talk to a lot of people or campaign to become President of the Citizens Club?

A. No. In fact, no one this year wanted the job so some of us younger fellows went to the meeting and they just voted us in.

Q. Have you known—Have you ever talked to Mr. Reilly in connection [1130] with—

A. Yes.

Q. Have you seen him more than once?

A. Oh yes. I would say—I would have to say I have seen him more than once.

Q. Is he a member of your Club?

A. I couldn't answer that. I never checked the social list.

Q. Do you know Mr. Reilly any other way other than him having done some business for this club?

A. I would have to say yes to a degree. I have never contacted Mr. Reilly personally but I have, through different political things I have worked for him.

Q. You have worked for his election as District Attorney?

A. Yes.

Q. Are you acquainted with Mr. Fennell?

A. No I'm not.

Q. Are you aware—I trust that if you were a juror in this case you are aware that Mr. Reilly would try this case as District Attorney of Clearfield County, are you not?

A. I am aware of this.

Q. Have you ever been a juror before or have you ever been summoned before?

A. Yes, I have been a juror before.

Q. You were?

A. Yes.

Q. When was that?

[1131] A. I believe two years ago in May.

Q. Do you recall if—was that in civil or criminal court?

A. I—it was criminal.

Q. Did you sit on a case?

A. Yes.

Q. Do you recall the kind of case it was?

A. Something about some guy burglarizing some camps down here in Clearfield somewhere.

Q. And Mr. Reilly tried that case?

A. Yes. I couldn't say whether Mr. Reilly tried that case or his Assistant. I'm really—I couldn't tell you, as to whether Mr. Reilly did or his Assistant. It was a Commonwealth case.

Q. Have you ever seen Mr. Fennell before to-day?

A. Yes, but I can't place it—there was a lot of cases that day and he would be on one and somebody on another.

Q. There was more than one case?

A. Yes. We were in the back and I sat back there and listened to the other cases.

Q. Mr. Harchak, do you think your acquaintanceship with Mr. Reilly and the fact that he would be trying this case would influence your decision in any way?

A. No.

Q. Do you think you could arrive at a decision which would be contrary to the position taken by Mr. Reilly in this case?

A. Yes, I could arrive at a decision.

Q. Now Mr. Harchak, you now remembered you belong to the Morann [1132] Citizens Club. Is there any other club besides those two?

A. No.

Q. Do you come into Clearfield very often?

A. No.

Q. This office you work out of in Clearfield—is that in downtown Clearfield?

A. Right now I'm in another County and when they transfer they just pick up a phone and say report to such and such a job. You may not be in that office for 4 or 5 or 6 months or a year or two.

Q. Do you belong to any health clubs, or sports-mens clubs in Clearfield?

A. No.

Q. Mr. Harchak, do you have some brothers or sisters in Clearfield County?

A. No.

Q. No others—mother and father?

A. My mother and father live in Clearfield County.

Q. Are they up in years?

A. Well—in their 50's.

Q. What does your father do?

A. He's a Mine Foreman.

Q. Is he still employed at the same coal company you were previously?

A. No, he works for another company.

Q. The Harchak Coal Company—

A. Harchak and Lucas that was.

Q. That was previously your father's company?

[1133] A. Yes.

Q. As a member of the Morann Citizens Club of which you are President Elect and which has approximately 164 members give or take a few, 68 of which are regular—now, would you be influenced or would there be any pressure on you to arrive at any particular decision in this case taking into consideration what you think the feeling of these people might be that you have to go back to and face as President after this?

A. Would I what?

Q. Would the fact that you're going to be President and you are going back to the Citizens Club which has a lot of members—would these factors influence you in arriving at any particular decision in this case?

A. No.

Q. You wouldn't feel any pressure or influence as being President of that Club?

A. No I can't see how.

Q. A little while ago, Mr. Harchak, you mentioned that—in response to one of my questions in regard to whether you wanted to be a juror, you said

that your name had been picked from the Jury Wheel and you were served with a summons and you felt it was your duty to come. How did you know your name was picked from the Jury Wheel?

A. Well, this I was always under the impression it was the proper procedure how they picked people.

Q. This was an assumption on your part?

A. Yes, I always understood this because I questioned it years ago how people could be picked and they said your name has to be in that box or Wheel and they pick them out of it. And, I was Precinct Chairman [1134] for a few years and I think it was the County Commissioners would send me a list of names of people of the area—if they wanted to become eligible for jury duty—and I would contact people and if they wanted I would write their name in and they would bring it in and submit it into the box.

Q. And the people that you would contact, would you actually contact these people and see if they wanted to be on or not?

A. Not necessarily. If I wanted to that was alright to.

Q. What?

A. I didn't have to go out and contact them, no.

Q. How would you know?

A. Many different people in the area say—how do you get on jury duty. I think finally it was brought out that they sent letters out to the Precinct Chairmen and this is—

Q. You would make a decision?

A. I didn't make no decision. If I'd see someone I'd say, do you want to be on jury duty—if they said yes I'd say, here sign this and if they said no I'd forget it.

Q. Mr. Harchak, we have been talking now for about a half hour and we often miss a lot of things that we may have liked to cover but we don't know certain areas to get into or whatever. Do you know any reason or do you have a reason in your own mind that you are aware of which you as an honest citizen would feel should prevent you from being on this jury in this particular case—is there anything I haven't discussed that you know and I don't?

A. No.

[1135] Q. Something that in your mind would make it—that you would reach the conclusion in your mind that perhaps you should not be a juror in this case?

A. No I'd say.

Q. You can't think of anything?

A. No.

Q. Have you ever been involved in a voir dire before Mr. Harchak, like the one we are going through now or familiar to this when you were picked the last time?

A. No.

Q. You weren't asked to answer questions like this?

A. No.

Q. Have you ever had any discussion with anybody about the type of questions asked in this type of thing?

A. No.

BY MR. SABINO:

If the Court please—on the basis of the—
Pass the juror.

BY MR. REILLY:

Commonwealth will accept the juror.

BY MR. SABINO:

On the basis of the totality and the relationship with the District Attorney and the State Police and the rest of the answers, defendant would challenge for cause.

BY THE COURT:

Challenge for cause is denied.

[1136] BY THE COURT:

You will kindly step down to be seated in Seat Number 3. You are replacing Juror Number 3 who has been excused from duty.

BY THE CLERK:

You do swear by Almighty God, that you will well and truly try and true deliverance make, between the Commonwealth of Pennsylvania versus Jon E. Yount, defendant, and a true verdict give according to the evidence and that as you shall answer to God at the Great Day?

A. I do.

BY THE COURT:

Mr. Harchak, you have now been seated and sworn. You will retain that seat at all times during the trial. We ask that you not discuss this case with anyone nor allow anyone to discuss it with you, or within your hearing. If any of these things should occur please report them to the Court. The tipstaves will answer for obtaining your personal needs. You will give them a list which you will make up. You are not allowed to communicate with anyone but you may tell them what you need in the way of personal things or if you should become ill, you will notify them and there will be something done about it. If you have an automobile that you drove here we will see to it that it is driven back to your home or wherever you tell us to deliver it. We would like to do that through the day and, therefore, we would like you to notify the tipstaves in that regard. You will not be allowed any reading material nor letters. You are not allowed any radio or television or telephone or to communicate with anyone except the tipstaves and only with them insofar as their looking after your needs [1137] are concerned and keeping you under sequestration. Please do not make any attempt to break any of these rules because it would be a violation of law if you would do that.

You will now be conducted to the jury room.

(All seated jurors returned to Court Room and also prospective jurors)

BY MR. KING:

May I approach the Bench, Your Honor.

(All counsel approach the Bench)

BY THE COURT:

This Court is about to recess and will recess until 1:45—1:45. The reason for change in the recess is, the hour, is the fact that we are recessing 15 minutes later than usual and in order to give the jurors sufficient and proper time to have their lunch we are giving you the same amount of time and, therefore recess until 1:45. Remember, Members of the Jury, you are not to discuss this case with anyone nor allow anyone to discuss it with you nor is anyone to talk about it within your hearing. If any of these things should occur, please report them to the Court.

12:15 p.m. Court recessed.

1:47 p.m. Court reconvened. Defendant in Court.

* * *

[1161]

* * *

DAVID J. CHINCHARICK called by the Clerk.

BY THE CLERK: Defendant look upon juror; juror look upon defendant.

You do swear by Almighty God, the searcher of all hearts, that the answers you shall make to the questions asked you concerning your qualifications as a juror, shall be the truth, the whole truth, and nothing but the truth, and as you shall answer to God at the Great Day?

A. I do.

BY MR. KING:

Q. You are Mr. Chincharick?

A. Yes.

Q. And where do you live sir?

A. In Ginter.

Q. Where is Ginter?

A. It's about four miles from Houtzdale—a little town.

Q. Four miles from Houtzdale?

A. Yes.

Q. East, South, North, West?

A. It would be East of Houtzdale.

[1162] Q. East, on what road is that?

A. That's 53 that comes from Houtzdale to Ginter.

Q. How long have you lived in Ginter?

A. Forty-seven years.

Q. What?

A. Forty-seven years.

Q. That's your home?

A. I built a home on a farm where my mother lives.

Q. Did you build your home right on your parents' farm?

A. Yes.

Q. Right on the farm?

A. Yes.

Q. And are your parents still living?

A. My mother, yes.

Q. Are you married?

A. Yes.

Q. And you live with your wife?

A. Yes.

Q. At this place in Ginter?

A. Yes.

Q. Is that out in the country?

A. It's out of town on a farm between Ramey and Ginter. It's a little farm.

Q. And do you have any children?

A. Yes, three.

Q. What are their ages?

[1163] A. Barb is 27, and Connie is 24, and Denise is 13.

Q. Where do they live?

A. They live—the ones that's married lives in Linden, New Jersey, Connie—

Q. Lives where?

A. Linden, New Jersey.

Q. Is that the eldest?

A. Next to the eldest, the one that's 24.

Q. The one that is 27?

A. She lives in Rahway, New Jersey.

Q. And the one 13?

A. She is at home.

Q. Does she go to school?

A. Yes.

Q. Mr. Chincharick, what do you do?

A. I operate a cutting machine in a coal mine.

Q. For what company?

A. Elliott Coal Company.

Q. Where are they located?

A. Osceola.

Q. Where is the mine in which you work?

A. In Ginter, Rosemary Mine.

Q. And for how long have you been doing that?

A. Thirty years in coal mining.

Q. Is your wife employed outside the home?

A. She works at the new school in Madera—
Moshannan Valley.

[1164] Q. Where?

A. In Madera.

Q. What does she do?

A. She takes care of the offices and cleans up.
She's a clean up lady.

Q. Does she do this at night?

A. She goes at seven o'clock in the morning.

Q. Do you do any other kind of work besides run a coal cutting machine?

A. Well I—roof bolting machine—bolting the roofs.

Q. Outside of the mine, you don't have any other kind of employment?

A. No.

Q. Do you belong to any organizations or social clubs of any kind?

A. No.

Q. Any Veteran organizations?

A. No.

Q. No hunting or fishing—

A. Hunting and fishing, yes.

Q. What hunting and fishing clubs do you belong?

A. I don't belong to the clubs but I hunt and fish.

Q. But you engage in those sports?

A. Oh yes.

Q. Have you been hunting this year?

A. I was out two days.

Q. Did you get your turkey?

A. No, I seen one but didn't get it.

Q. When you go hunting and fishing Mr. Chincharick, do you go in company with other men?

[1165] A. No, this year I went by myself hunting turkey.

Q. And the years before this year did you go with other people?

A. For turkey, no, by myself.

Q. For hunting anything?

A. For deer my son-in-laws come in.

Q. And do you have a regular group with which you go hunting, do you have a camp or anything?

A. No we don't have a camp.

Q. Mr. Chincharick, do you have a television and radio at home?

A. Oh yes.

Q. And do you read the newspaper?

A. Oh yes, we get the paper.

Q. Mr. Chincharick, you're familiar with the matter that we are talking about. You know why you're here?

A. Yes.

Q. And I think His Honor said this morning it is the matter of Jon Yount but you knew this before you came?

A. Yes.

Q. Do you recall when this matter came up back four years ago—back in 1966?

A. Yes.

Q. You read about it and heard about it then?

A. Yes.

Q. And you heard people talk about it?

A. Yes at the job in the mine.

Q. It was a matter of pretty general discussion, was it not?

[1166] A. Yes.

Q. And you heard these people express opinions and their ideas about it?

A. Yes.

Q. And I suppose likewise Mr. Chincharick, on occasion you expressed your opinion about it, did you not?

A. Yes.

Q. Mr. Chincharick, do you still have an opinion about Mr. Yount's guilt or innocence as you did before?

A. Yes.

Q. You do?

A. Yes.

Q. And that opinion is a firm and fixed opinion, you're sure of what it is?

A. Yes.

Q. And it's set in your mind. Is that right?

A. Yes.

Q. And Mr. Chincharick, if you were to be a juror on this case would you hear whatever evidence you heard and then decide the case based on that evidence as well as on the opinion that you have?

A. Yes.

Q. And you could not put this opinion out of your mind before you were to be a juror. Is that right?

A. Well, yes.

Q. And you would not decide the case only on the evidence but you would also use it to weigh it against the opinion. Is that right?

A. Yes.

[1167] Q. In other words Mr. Chincharick, you would not be able to put that opinion aside and base your decision only on the evidence you would hear in Court but you would use that opinion as well as the evidence. Is that correct?

A. Yes.

BY MR. REILLY:

Your Honor, on this question as in all of the past questions put to most of the witnesses we've had—I feel we should let the witness testify. Let the witness give his answer and not have counsel for defendant testify for them.

BY THE COURT:

I agree. Especially when it isn't cross-examination.

BY MR. KING:

Well, before Your Honor rules, if I may submit, I believe the rhetorical questions and the rhetorical manner in which they are asked make it necessary to ask these questions in parts and I submit that—

BY THE COURT:

I quite agree with the District Attorney's opinion. You are designating the answers by leading and I think that's true. I don't know if that's what's bringing forth the answers. I think his objection is well taken, especially when it's not on cross-examination. I think he can ask the questions and then he can give you his answer without suggesting the answer in the question.

BY MR. KING:

Q. Mr. Chincharick, you told me that you do have an opinion. Is that correct sir, you said you have an opinion—is that right?

[1168] A. Well you mean about what went past before?

Q. Yes?

A. Just what I read in the paper you know.

Q. Regardless of what it is based on, the question is, do you have an opinion—yes or no?

A. Yes.

Q. Yes. And can you put that opinion out of your mind?

A. Well I have had it in all the time, from what I read.

Q. Would your answer to my question then, therefore, be "no". You could not put it out of your mind?

A. It's pretty hard.

Q. Pretty hard. No matter what you were to hear you would still have that opinion. Is that correct?

A. Yes, I believe so.

BY MR. KING:

Pass the juror.

BY MR. REILLY:

Q. Mr. Chincharick, if you were chosen to sit in this jury box as a juror to decide the guilt or innocence of this defendant would you be able to base your opinion, that is, your verdict, only on the evidence and testimony you would hear and the instructions from the Judge?

A. Yes.

Q. Now do I understand Mr. Chincharick that in basing it only on the evidence and testimony and the instructions from the Judge you would be able to set your opinion aside and consider only the evidence and testimony and what the Judge would tell you?

[1169] A. Yes.

Q. Do you know the defendant in this case?

A. No.

Q. Or any members of his family?

A. No.

Q. Do you know David Blakley, an attorney from DuBois?

A. No.

Q. Have you ever met Mr. King or Mr. Sabino?

A. No.

BY MR. REILLY:

Pass the juror.

BY THE COURT:

Q. Mr. Chincharik, I want to be sure you have understood. The procedure is that if you are chosen as a juror you are seated and you are sworn to try the case and to return a just and true verdict according to the evidence. Is that understood?

A. Yes.

Q. Could you even though you have an opinion, listen to all the evidence and after you have heard the evidence, decide the case solely on that evidence and cast aside your opinion?

A. Yes.

BY MR. KING:

Q. Mr. Chincharik, what does the word "solely" mean?

A. I don't know.

Q. You don't know. When the Judge asked you a second ago could you decide the case solely on the evidence, you don't know what the word [1170] solely means?

A. Yes.

Q. So you don't know what the Judge meant when he asked that question. Is that correct?

A. Not that word, no.

Q. You don't know what that word means. That means you don't understand what the Judge asked you?

A. I understood all except that one word.

BY THE COURT:

Q. Did you understand the word "only"? Could you decide the case only on the evidence?

A. Yes.

BY MR. KING:

Q. Do I understand then, Mr. Chincharick, that you can put this opinion that you have out of your mind?

A. Well, if I heard the case. I just went by the paper, what I seen in the paper.

Q. Do I understand you would require evidence to be presented before you could put this opinion out of your mind. Is that what you mean?

A. Yes.

Q. And until you heard evidence you would not put the opinion out of your mind. Is that what you're telling us?

A. Yes.

Q. Mr. Chincharick, do you know any members of the State Police?

A. Only Andy Harchack is the only one I know.

Q. You do know Andy Harchack?

[1171] A. Yes.

Q. Do you also know John Harchak?

A. Yes.

Q. How do you know John Harchack?

BY MR. REILLY:

Your Honor, it is my understanding under the ruling of the Court last week, once the juror was passed, no new matters could be presented.

BY THE COURT:

I allowed the other questions but I don't believe that this is pertinent to this issue at all. We are dealing with qualifications and I don't believe it falls in the qualifications.

BY MR. KING:

I follow the rule of law that when a new subject comes up which appears to be pertinent it may be examined into.

BY THE COURT:

It wasn't a new subject when he said he knew the State Police. I don't believe anybody else inquired. I think you pursued the inquiry but I am letting you inquire as to anything pertinent but certainly not where it isn't pertinent. I don't believe this is pertinent to this inquiry as to whether he knows John Harchak, I believe was the name, or whatever the names were.

BY MR. KING:

Q. Do you know any other State Policemen besides Mr. Harchack?

A. I don't know their names, you know. Just to see them but I don't know their names.

[1172] Q. As you look around the room, do you see any State Policemen whose faces you recognize?

A. (Witness points)

Q. You pointed to the gentleman sitting at the table. Do you recognize his face?

A. Are you a State Trooper?

Q. Do you recognize the gentleman we affectionately know as Mr. Bedford?

A. Just by passing through by automobile.

Q. Do you know Mr. Reilly the District Attorney?

A. No.

Q. Or Mr. Fennell his able Assistant?

A. No.

Q. Mr. Chincharick, have you ever been summoned or called as a juror before?

A. No.

BY MR. KING:

Defense challenge for cause.

BY THE COURT:

Defense's challenge for cause is denied.

BY MR. REILLY:

Commonwealth will accept the juror.

BY THE COURT:

Very well. You will take Alternate Juror's Seat Number 1 and you will be sworn by the Clerk of Courts.

BY THE CLERK:

You do swear by Almighty God, that you will well and truly try and [1173] true deliverance make, between the Commonwealth of Pennsylvania versus Jon E. Yount, defendant, and a true verdict give according to the evidence and that as you shall answer to God at the Great Day?

A. I do.

BY THE COURT:

Mr. Chincharick, you have now been sworn and seated as Alternate Juror Number 1, and at all times during the trial of this case you will be seated in that same seat. There will be another juror seated to the rear of you but you will take that seat at all times. During the whole of this trial you are ordered not to discuss this case with any one nor allow anyone to discuss it with you or within your hearing. If any of these things come to your attention, please report them to the Court.

I want you to know too that you will be denied the use of radio, television and reading material and you will be sequestered at all times with the other members of the Jury. We think you will be comfortable. We hope so. You will be sequestered at the

Holiday Inn Motel at DuBois where you will be fed your morning and evening meals. During the day you will eat your lunch over here. You are not to attempt to communicate with anyone nor is any one allowed to communicate with you, except that you are allowed to write out your personal needs and we will obtain them for you and if you drove your car over here today we will see that the car is returned to your home or wherever you direct it to be returned. Anything that is written must pass the inspection not only of the Court but the attorneys so if there is anything you write out to have delivered to the Court, remember that the jury—I'm [1174] sorry, the tipstaves and matrons won't read it, but the two attorneys and the Court will and we will decide whether such messages may be delivered and there can be no letters of any kind passed back and forth. I am only referring to emergency matters that you might decide should be taken care of. Whatever your personal needs may be now, would you please write them out after you are in the jury room. Also please tell the tipstaves what you want them to do with your car and those instructions will be delivered to us and we will examine them.

Alright.

BY MR. SABINO:

If the Court please, before I forget—I would like to make something—something that Mrs. Rokowsky said. She said she was summoned by a Constable by the name of Young.

BY THE COURT:

She said she didn't know. Robert Young was actually a Deputy Sheriff. You can check that downstairs. He is a Constable but was designated a Deputy Sheriff. He has designated something like 18 nice jackets so he now has 18 nice deputies.

LaVERNE B. PYOTT called by the Clerk.

BY THE CLERK: Juror look upon defendant; defendant look upon juror.

You do swear by Almighty God, the searcher of all hearts that the answers you shall make to the questions asked you concerning your qualifications as a juror, shall be the truth, the whole truth, and nothing but the truth, and as you shall answer to God at the Great Day?

A. I do.

[1175] BY MR. REILLY:

Q. Will you state your name please?

A. LaVerne B. Pyott.

Q. And is it Mrs. Pyott?

A. Yes.

Q. Where do you live?

A. Burnside.

Q. How long have you lived there Mrs. Pyott?

A. Twelve and a half years.

Q. What is your husband's occupation?

A. He's a funeral director.

Q. Have you any children?

A. Yes, two.

Q. What are their ages?

A. A daughter almost 13 and a girl 8. Two children.

Q. Both girls?

A. Yes.

Q. Mrs. Pyott, do you know or are you acquainted with the defendant in this case?

A. No.

Q. Or any members of his family?

A. No.

Q. Have you formed an opinion as to the guilt or innocence of this defendant?

A. Sort of.

[1176] Q. If you were selected to sit on the jury in this case, would you be able to base your verdict only on the evidence and testimony that you would hear along with the instructions from the Judge?

A. If I had to, yes.

Q. And you would be able to put your opinion aside and not base your verdict—or not consider your opinion in arriving at your verdict. Is that correct?

A. Yes.

Q. Do you know Mr. David Blakley from DuBois?

A. No.

Q. Or Mr. King or Mr. Sabino?

A. No.

BY MR. REILLY:

Pass the juror.

BY MR. KING:

Q. Mrs. Pyott, you've lived in Burnside for 12 years I understand?

A. Yes.

Q. Where did you live before?

A. Philadelphia.

Q. And Mrs. Pyott, where is your home?

A. Well we were raised in Reading and then we were married in Reading and moved to Philadelphia while he was going to College.

Q. To Mortician's School?

A. Yes.

Q. And he went to school in Philadelphia then, I understand?

A. Yes.

[1177] Q. And after leaving Philadelphia you and your husband came to Clearfield County?

A. Yes.

Q. And you and your husband were both raised in—

A. Reading.

Q. In Reading?

A. Right.

Q. Do you have any relatives around this area?

A. No.

Q. Just you and your husband and children?

A. Yes.

Q. Where do your little girls go to school Mrs. Pyott?

A. The one goes to Purchase Line High School and the other to McGees Mills Elementary.

Q. Does Mr. Pyott have any employment other than being in the funeral business?

A. Yes. He just started this Fall driving school bus.

Q. Driving School Bus?

A. Yes.

Q. You say he just started this past September?

A. The last week of August our school started.

Q. The last week of August—and before he did that, did he have any other line of endeavor other than the mortician business?

A. No.

Q. This place that you live in Burnside Mrs. Pyott, is that the funeral home?

A. No, we live about two blocks away from the funeral home.

[1178] Q. And is your husband in the business by himself or does he have any partners?

A. He owns it by himself.

Q. Do you have any employment Mrs. Pyott, outside the home?

A. Yes.

Q. What is that?

A. I'm part-time secretary.

Q. Part-time secretary?

A. Yes.

Q. Where do you do that?

A. In Barnesboro.

Q. In Barnesboro?

A. Yes.

Q. For whom do you work?

A. An insurance agency.

Q. Does it have a name?

A. Well, it's in the process of incorporating right now. It's Jones Insurance and if they incorporate it it will have another name.

Q. How long have you been doing that?

A. Just for a month.

Q. I assume you have a radio and television at your house?

A. Yes.

Q. And you read the newspapers?

A. Yes.

Q. And you're familiar with the matter that we're talking about here, are you not?

[1179] A. Yes.

Q. And over the years, particularly the last four years, 1966 up to now you heard about the matter concerning Mr. Yount, have you not?

A. Yes.

Q. And I don't know if anyone asked you, but I assume that you do not know Mr. Yount personally or any members of his family?

A. No I don't.

Q. Do you know any members of the Pamela Rimer family?

A. No.

Q. Do you know any members of the State Police?

A. I don't think so.

Q. Now over the years I think you told me, you have heard people discuss this Yount matter, have you not?

A. Yes.

Q. You have heard opinions expressed?

A. Yes.

Q. And I think you mentioned a few minutes ago that you had an opinion, is that correct?

A. Yes.

Q. You do, and are you—is it a definite opinion?

A. Well, I don't know all the facts.

Q. We're not asking you to decide the case. We're just asking if you have an opinion about it?

A. I guess I do.

Q. Yes. Based upon what you have read or heard you have an idea in your mind about it?

[1180] A. Yes.

Q. That's what we call an opinion?

A. Yes.

Q. So do you have such an opinion or idea?

A. Yes.

Q. And you've had it for some time, have you not?

A. Yes.

Q. And it is a definite opinion, is it not?

A. I guess you'd call it that.

Q. You said I guess?

A. I said I have an opinion, yes.

Q. Yes. Now, is that opinion such that if you were to be a juror in this case, that you would be unable to erase or to put that opinion out of your mind and decide the case only on the evidence that you would hear in Court or would you still remember your opinion as well as evidence you might hear?

Think for a minute and be sure you understand what I just asked you.

A. I don't know how to answer you.

Q. Do you understand the question?

A. Yes sir. I have an opinion but –

Q. Would you require the production of evidence in order to change your opinion?

A. Oh yes, I would.

Q. In other words, you're going to have that opinion and you're going to keep it and you will require something to be done in order for you to change your mind. Is that the idea?

[1181] Q. Well the question is, Mrs. Pyott, you would require the production of evidence in order for you to change your mind – to change your opinion, is that true?

A. Yes.

Q. In other words you cannot take that opinion and put it out of your mind before you hear any evidence. Is that right?

A. No, I couldn't dismiss it from my mind now, no.

Q. Do I understand then, maybe you could dismiss it from your mind later and maybe you couldn't. Is that right.

A. Yes.

Q. When were you notified to be here?

A. Saturday afternoon.

Q. Where were you when you got the notice?

A. At home.

Q. Who was there?

A. My little girl. My one little girl.

Q. Was your husband there?

A. Not at the moment.

Q. When he came in did you discuss the matter with him?

A. I just told him that the Sheriff had been there and I was upstairs changing my clothes before I came down and that I had to come to Clearfield right away.

Q. Did you come in to Clearfield by yourself?

A. Yes.

Q. Did you and he discuss the matter that you were going to come [1182] here on? You knew it was the Yount matter at that time.

A. Yes, because there was somebody from our town that was supposed to come and they didn't. They had a medical excuse.

Q. And you knew about that?

A. I knew they were looking for jurors.

Q. It's sort of been in the newspapers for the last two weeks, has it not, that they were out looking for jurors?

A. Yes, but I just started to work. I haven't been reading it too much the last couple of weeks.

Q. You aren't telling me you haven't read the papers in the last two weeks, are you?

A. No, but not about this.

Q. But you did know the matter was in Court this week and last week?

A. Yes.

Q. And so when the man came and gave you the notice to come to Court you knew it was in connection with this matter?

A. Yes but it was a surprise when he came.

Q. You're just like a lot of people Mrs. Pyott. Everyone is surprised. There's nothing wrong with being surprised. Do you know the name of the person who came and gave you the paper?

A. Yes.

Q. Who was that?

A. Sheriff Charney.

Q. Do you recall what time of the afternoon it was that he showed up there?

[1183] A. Two-thirty or quarter till three.

Q. Did Mr. Charney come back here with you?

A. No, I drove down myself.

Q. You drove yourself?

A. He said he'd bring me if I didn't have a way.

Q. Is he the one that told you he had to go serve a couple other people, particularly, the other person you mentioned a little while ago?

A. Oh no, I just happened to know the other person had a medical excuse. His wife told me.

Q. Who told you?

A. This man's wife told me. This other fellow was supposed to come down last week—he had a medical excuse for medical reasons.

Q. When did you talk to him?

A. I didn't. I said this man's wife told me. I knew that the case was on trial again because I knew that this one man from Burnside was supposed to come down to be selected for jury and he got a medical excuse. That's, I guess that's how I knew that the case was on trial.

Q. That was three or four days ago?

A. Yes, I believe.

Q. Not last Saturday?

A. No.

Q. Would it be any great inconvenience to you or work any hardship on you or your family if you were selected as a juror and had to spend considerable time with us for a while—would there be a hardship?

A. Yes.

[1184] Q. It would be?

A. Yes.

Q. Mrs. Pyott, do I understand your position to be that any evidence you would hear in Court, you would weigh this and measure it against the opinion that you already have in order to arrive at a verdict or decision. Is that correct?

A. Yes I would.

Q. In other words, whatever evidence you would hear in Court you would treat along with your opinion that you have?

A. Yes.

Q. And you could not set aside—you could not set aside or brush aside your opinion before hearing any evidence. Is that right?

A. No.

Q. Do you mean no you could do that or that you can't do that?

A. No, I can't do that.

Q. And the opinion you have would affect your deciding the case only on the evidence, is that right?

A. I don't understand that—

Q. Well, that opinion that you have, you would keep in your mind, and would use that as only one of the things you would consider in deciding the case. In other words, you'd use that as well as the evidence you would hear in Court?

A. Yes.

Q. The answer is "yes"?

A. Yes.

BY MR. KING: Pass the juror.

[1185] BY MR. REILLY:

Commonwealth will accept the juror.

BY MR. KING:

Challenge for cause.

BY THE COURT:

Challenge for cause denied. We are satisfied that this witness has truthfully and accurately answered questions put to her and that she has declared she would decide this case only on the evidence after having heard the evidence and under the cases we are satisfied this is sufficient and, therefore, we direct that she take Alternate Juror's Seat Number 2 and there she will be sworn and seated.

BY THE CLERK:

You do swear by Almighty God, that you will well and truly try and true deliverance make, between the Commonwealth of Pennsylvania versus Jon E. Yount, defendant, and a true verdict give according to the evidence and that as you shall answer to God at the Great Day?

A. I do.

BY THE COURT:

Mrs. Pyott, you have now been seated and sworn as an alternate juror. You are Alternate Juror Number 2, and you will always take that same seat during the trial of this case.

We ask that you not discuss this case with any one nor allow any one to discuss it with you or within your hearing without reporting such an incident to the Court if it should come to your attention. Mrs. Pyott, you will deliver to the Matron a list of personal needs you will be wanted and during the course of trial, if there are others, [1186] you may supply that list. You are not to communicate with anyone. However, your

communications are only with the tipstaves and matrons and the Court. No one else. Therefore, we ask that you not discuss this case even with the tipstaves or matrons because they have no part in the case except to serve your needs and to be security for the jury. They are there to serve you, so anything you need please convey your wishes or desires to them and they will contact the Court. Any written communications, if emergency should require, I want you to know it will be read by both attorneys and by the Court. But those aren't even allowed except as needed by an absolute emergency which would require it anyways. Anything you do write will be read by the attorneys and by the Court. If you will, when you go to the jury room, make out a list and I assume too, you need to have your car driven back home and if you will tell them and give them directions we will see that your car gets back there yet today. And you will have to, of course, give them the keys and notify us where the car is parked. Alright.

This Court is now in recess for ten minutes. The Court will meet with the attorneys in the Lawyer's Room.

Court recessed 3:27 p.m.

Voir dire examinations completed.

IN THE COURT OF OYER AND TERMINER AND
GENERAL JAIL DELIVERY OF CLEARFIELD
COUNTY, PENNSYLVANIA

No. 2 May Sessions, 1966

Commonwealth

VS

Jon E. Yount

MEMORANDUM AND ORDER

The Court having considered all legal arguments together with the testimony produced at hearing upon defendant's motion to suppress evidence and to change venue, has arrived at the conclusion that there is no basis for the contentions of the defendant. The evidence is so clear that there is no such foundation as is claimed by him that the Court does not see any efficacy or need whatsoever for the citation for authority.

First, as to the suppression of evidence, the Court feels that the Supreme Court of Pennsylvania in the Opinion rendered in the instant case to No. 2 May Sessions, 1966, is quite clear and that the guide lines for suppression of evidence have been set forth therein

sufficiently so that the Court will be bound thereby and will be clearly guided.

Second, as to change of venue, the evidence was limited to the fact that without editorial comment of any kinds the newspapers in the County reported the decision of the Supreme Court of Pennsylvania; but it is to be noted that they not only referred to the [dissenting] opinion and quoted it, but also to the majority opinion and quoted it. We do not believe that the mandates of the cases extend so far as to say that the news media cannot publicize, without editorial comment, the decisions of our Courts. It is our belief that this is a necessary and salutary privilege and right of the news media; and that in this instance the reporting did not extend itself beyond that privilege and right. The only other evidence produced to attempt to show a need for change of venue was an occasional telephone call made to the home of the wife of the defendant at which time there would be nobody answering on the end of the line. It is to be noted this occurs quite frequently in various situations and as to many types of people. Therefore, we do not deem this to be sufficient either to grant the prayer of the Petition.

In view of the foregoing the Court enters the following

ORDER

NOW, September 21, 1970 Petition and prayer thereof are dismissed and that it is ORDERED that the proceedings be had forthwith as allowed and required by law and that the defendant be tried upon

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the charges set forth in the Indictment at the very next Term of Court, namely: October Term 1970.

BY THE COURT,

IN THE COURTS OF OYER AND TERMINER AND
GENERAL JAIL DELIVERY OF CLEARFIELD
COUNTY, PENNSYLVANIA

No. 2 May Sessions, 1966.

Commonwealth

VS

Jon E. Yount

MEMORANDUM & ORDER

Counsel for defendant has again moved for Change of Venue alleging that there has been unfair publicity given to the case, not only before the commencement of the instant matter, but also after trial and after the results of Appeal to the Supreme Court had been announced. Also projected as a reason for which Change of Venue is requested is the fact that voir dire was conducted as to 156 jurors and that 121 of said jurors already have been challenged for cause. After consideration of all matters entering into the selection of jurors in the instant case and after very sober reflection into everything concerned in selection thereof, it is the considered opinion of the Court that the Motion must be denied. The mere fact of numbers in itself is not sufficient to establish a basis for Change

of Venue; nor is the argument presented by defendant that the consumption of 8 days so far in selection of jury indicates prejudice or bias against the defendant one that can be sustained. As argued by the District Attorney, the length of time consumed at this point, with selection only of the 12 jurors in the box, resulted primarily from very extended examinations of prospective jurors by counsel for defendant. The Court adds that it also resulted from the very great leniency of the Court in the permitting questions to the jurors by defendant's counsel. Also entering into the matter of time consumed is the fact that the Court did have to call for additional jurors after exhaustion of the original panel of 102, which itself took up the equal of at least 2 to 3 days. We think in this regard that the observation and explanation given by Judge Laub in his Pennsylvania Trial Guide, Paragraph 34.4, at Page 81, is quite apt in the instant proceeding: "This extraordinary situation (exhaustion of array of the venire) is frequently encountered during the selection of a panel in murder cases. In that type of case the large number of peremptory challenges allowed to each side, *and the liberal allowances of causal challenges* frequently exhausts the array or reduces it to the point where the trial cannot proceed until additional jurors have been summoned". Thus, it is recognized that it is not necessarily the fact that there may be fixed opinions, prejudice, or bias that leads to the challenges granted by a court. This Court would declare that in the interests of justice and the protection of all matters in the proceedings the Court did extend great leniency to defendant in their examination and in the grant of challenges for cause. Furthermore, a Change of Venue should be granted not just for convenience but to

achieve justice and to assure that there will be an impartial jury to try the case. We believe, particularly since we already selected and seated 12 jurors out of a possible 156, that we are achieving the proper results. It is true that since the matter arose the unfortunate death of the youngest sister of Juror #3 occurred and that we had to excuse her from further service by reason thereof; but we do not believe that this changes the situation. If anything, we would believe that the defendant has been benefited when one considers trial tactics. It is to be considered also that fair trial is not precluded in this case; when one recognizes that almost all, if not all, jurors already seated had no prior or present fixed opinion, and this was established by very searching examination and cross-examination by counsel for defendant.

The Court would also note that it has been 4 years since the first trial of this cause, and so far as this Court can recall, there has been little, if any, talk in public concerning the trial from that time to the time when it was announced that a trial date had been fixed. The situation is somewhat like that found in the Case of *Comm. vs Capps* 382 Pa. 72; and we do not believe the jury has been influenced prejudicially against the defendant in anywise, nor will it be. Again, we feel that the situation is one calling for the application of principles contained in the case of *Comm. vs Simmons* 361 Pa. 391. Therefore, recognizing that the trial court has no "inherent power" to change venue; that the Motion for Change of Venue is addressed to the sound discretion of the Court (*Comm vs. Swanson* 432 Pa. 293; *Comm. vs. McGrew* 375 Pa. 518; and *Comm. vs Richardson* 392 Pa. 528, we con-

clude that there is no factual nor legal basis for the grant of the Motion in the instant matter, insofar as jury selection is concerned. Pennsylvania Rules of Criminal Procedure No. 313, which superceded the Act of 1875 PL 30, Section 1, 19 P.S. Section 551, in this regard.

Nor do we find any unfair inferences or prejudicial effects as to or against the defendant resulting in any of the newspaper items which have been the subject of the affidavit filed in this regard on November 13, 1970. With all of the publicity to which they refer, this Court is cognizant that at no time since the commencement of this case on November 4, 1970 have there been any more than 4 spectators in the Court Room, and at most of the times, 2 of these were "Court House hangers on". This is some indication of the fact that particularly in a community as small as ours, there has not been any great effect created by any publicity. In any event, however, the articles are not such as to create any unfairness. Cf. *Comm. vs. Mangan*, 31 D. & C. 2nd 635. Even though this case was decided before the most recent cases dealing with individual rights and the rights of an accused, we are satisfied that the philosophy and practical considerations back of same are equally controlling in the instant case.

Therefore, the Court enters the following

ORDER

NOW, November 14, 1970, Motion to Change Venue is denied.

266a *Memorandum and Order, Nov. 14, 1970*

Further proceedings shall be had according to law. -

BY THE COURT,

IN THE COURT OF OYER AND TERMINER AND
GENERAL JAIL DELIVERY OF CLEARFIELD
COUNTY, PENNSYLVANIA

No. 2 May Sessions 1966

Commonwealth

VS

Jon E. Yount

OPINION

This matter comes before the Court on defendant's motion for new trial, setting forth many and varied bases for the same. The Court will deal with each properly taken matter in order. Since the case has been heard twice, and has been appealed to the Supreme Court (See Commonwealth vs Jon E. Yount 435 Pa. 276, 256 A2d, 464), the Court will not set forth the detailed facts of the occurrence.

For the purposes of the instant matter, it is to be recognized that in the second trial voir dire of the prospective jurors began on November 4, 1970 and continued until November 16, 1970, when the jury was empanelled. As pointed out by counsel for defendant one jury panel was entirely exhausted, another was

challenged by defendant and dismissed, and on five occasions the Court did summon additional groups of prospective jurors. Trial commenced on November 17, 1970 and on November 20, 1970 resulted in a verdict of guilty of murder in the first degree.

The first issue raised by defendant is that the Court erred in refusing to change the venue. We are satisfied that the action of the Court was entirely correct. The first of the trials occurred in 1966, and as pointed out herein, the second one occurred in 1970. As the record will indicate there was practically no publicity given to this matter through the news media in the meanwhile except to report that a new trial had been granted by the Supreme Court. It is to be noted also that throughout the second trial there was practically no public interest shown in the trial; one thing to be noted is that on some days there being practically no persons present even to listen to it. The mere fact that it took such a long time to select a jury was simply that defendant raised so many questions and the Court exercised its discretion to assure that there could be no complaint about the final jury empanelled. Certainly because it takes a lengthy time to select a jury is not a sufficient basis for declaring that there is any prejudice or bias whatever involved. In fact, as already indicated this Court perceived of no bias or prejudice resulting in any manner. We are satisfied that the Court properly exercised its discretion to grant a new trial, and therefore, do not sustain defendant's position in this regard. Cf. *Commonwealth vs Swanson* 432 Pa. 293, 248 A2d 12 and cases cited therein. We conclude that the Court satisfied all requirements of Pennsylvania Rules of Criminal Procedure, particularly, Rule 313.

Defendant asserts that the Court erred in its rulings on challenges for cause made for defendant during voir dire. Again, we are satisfied that even where a juror may have had any opinion in the matter, the jury was without prejudice and was able to and did arrive at its verdict on the testimony and the law involved. A review of all of the matters attacked by defendant, considering the whole of the examination put to the various jurors by the Commonwealth and by defendant establishes without question that these rulings were accurate. Furthermore, we do not acknowledge to, in fact deny, the allegation that the Court would grant a change of venue if a particular group of jurors was exhausted. The Court would still retain to itself the right to declare whether a juror could or could not be selected under the circumstances; and it definitely was satisfied that this was a case where a jury could be, and was, so selected. Cf. Commonwealth vs Swanson 432 Pa. 293, 248 A2d 12.

The defendant next attacks the refusal of the Court to sequester Commonwealth witnesses. As pointed out by the Commonwealth no witness was called who had not previously testified at the first trial; and examination of all of the testimony will indicate that it was much as was given at the first trial of this case. There was no reason for the Court, then, to sequester. See Commonwealth vs. Kravitz, 400 Pa. 198 at 217, where the Court declared:

"Defendant contends that the trial Court erred in refusing to separate and sequester the police officers and detectives who were Commonwealth's witnesses. In nearly every criminal and civil case, one side or the other would like to have some or

all of the witnesses of his opponent sequestered. The lack of adequate room space, the long delays which would inevitably be caused by sequestration and other practical considerations, make sequestration of witnesses ordinarily impractical or inadvisable, except in unusual circumstances.* (*A request for sequestration of a witness or witnesses should be specific and should be supported by some reason or reasons demonstrating that the interests of justice require it.) For the foregoing reasons the question of sequestration of witnesses is left largely to the discretion of the trial Judge and his decision thereon will be reversed only for a clear abuse of discretion."

The next allegation of defendant is that the Court erred in refusing to suppress the evidence with regard to the defendant's stationwagon. Again, this position is not well taken. Defendant presented himself at the State Police Substation on the morning after the homicide, and thereafter the Police obtained search warrant for the stationwagon and took it into their custody and possession. Defendant's allegation is that this was an unreasonable and illegal search and seizure because: (1) not incident to a lawful arrest; (2) based on information obtained after Miranda warnings should have been given, and therefore, were "fruits of the poisonous tree"; and, (3) that there was no probable cause for issuance of the search warrant beyond that contained in defendant's confession which was later held to be inadmissible. They failed to recognize, however, that there was probable cause for the issuance of the search warrant and that that did not emanate from confession made by defendant. Two of

the witnesses testified to seeing the particular type of stationwagon, giving its name, color, and make. These were at or near the site of the crime and at or near the time thereof. As the record will note on the very following morning that the defendant appeared at the Police Substation he declared that he had been the one that they were looking for in the killing of the victim. No Miranda requirements existed at that point. These were sufficient bases for probable cause, and as declared in *Spinelli vs U.S.*, 393 U.S. 410, 89 S. Ct. 584:

"... In holding as we have done, we do not retreat from the established propositions that only the probability, and not a *prima facie* showing, of criminal activity is the standard of probable cause, *Beck v. Ohio*, 379 U.S. 89, 96, 13 L.Ed. 2d 142, 147, 85 S. Ct. 223 (1964); that affidavits of probable cause are tested by much less rigorous standards than those governing the admissibility of evidence at trial, *McCray v. Illinois*, 386 U.S. 300, 311, 18 L.Ed. 2d 62, 70, 87 S. Ct. 1056 (1967); that in judging probable cause issuing magistrates are not to be confined by niggardly limitations or by restrictions on the use of their common sense, *United States v. Ventresca*, 380 U.S. 102, 108, 13 L.Ed. 2d 284, 688, 85 S. Ct. 741 (1965); and that their determination of probable cause should be paid great deference by reviewing courts, *Jones v. United States*, 362 U.S. 257, 270-271, 4 L.Ed. 2d 697, 707, 708, 80 S.Ct. 725, 78 ALR 2d 233 (1960)."

The next complaint of the defendant is to the effect that the Court erred in refusing to suppress all

alleged oral admissions made to the Police by the defendant, after defendant indicated that he was the man the Police were seeking in connection with the Luthersburg incident. It is to be noted that this defendant presented himself to the Police on the morning after the homicide, without direction, order, or mandate. In fact, when he did so there was no knowledge on the part of the Police that he "was the one they were looking for". When the Officer without further identification asked defendant why the Police were seeking him, he answered, "because I killed that girl". At no time until then was he in Police custody nor had they "pointed the finger at him". Therefore, the cases relied upon by defendant are not at all controlling in the instant matter. In those, the defendant was unquestionably under police control and custody. We are satisfied further that Mr. Justice Roberts very definitely recognized that this portion was properly admitted and formed the basis for the action of the Police in this regard when he declared:

"At this point, appellant was invited to sit down and was given something to eat. One of the officers then began questioning appellant, asking him, 'How did you kill that girl?' According to the officer, appellant replied 'I struck her with a wrench and I choked her.' The officer here gave appellant warnings which Commonwealth concedes did not include appellant's right to free counsel if he could not afford his own attorney. The conference recommenced and appellant gave his first confession."

We are satisfied that in our interpretation of Mr. Justice Roberts' Opinion the Court did not intend that

what occurred prior to the interrogation thereafter instituted could not be a basis for disregarding the spontaneous and volunteered statements made when the defendant came to the Police Substation. See also *Commonwealth vs Freeman* 438 Pa. 1, 263 A2d 403; and, *Commonwealth vs Frye*, 433 Pa. 473, 252 A2d 580.

The sixth basis advanced by defendant is that the Court erred in admitting into evidence a pocketknife which was taken along with other incriminating evidence as a result of the search warrant. We are satisfied that in no manner was there any harm to the defendant in this regard; and in any event, in view of the fact that the pathologist declared that the victim's throat had been cut by a sharp instrument, that the pocketknife was in his possession when he admitted to the crime, only one-half day later, satisfied the Court that this was properly admitted. See *Commonwealth vs. Settles* 442 Pa. 159, A.2d . The knife admitted in that case had no possible bearing because the victim was shot and there was no evidence of the use of any other instrument.

Certain photographs of the deceased as well as articles of her clothing worn by her at the time of the homicide were admitted into evidence, and counsel now attacks the same on the basis that this was inflammatory. We do not feel that the photographs were at all inflammatory, and particularly are satisfied that they did not so result because the Court gave very strict instructions in regard to their use. Under all the cases and because the testimony in this regard would have been deficient if such had not been admitted in order to be compared with the descriptions given by

oral testimony, we overrule defendant's allegations in this regard. The photographs aided in the jury's understanding of the type of injuries inflicted, where and how the deceased was found, the site and position of the deceased, and in very definite corroboration of the oral testimony of witnesses. Cf. *Commonwealth vs. Chasten* 443 Pa. 29, A.2d . It is to be noted also that the jury saw these photographs only briefly and the jury was not given the photographs nor the clothing to consider upon their retirement to the jury room.

Defendant next declares that the Court erred in refusing the defendant's Points for Charge, particularly those pertaining to the Commonwealth's failure to produce sufficient evidence of a willful, deliberate, and premeditated homicide, and failure to prove any deadly weapon in connection with the homicide. Again, we feel that this is not well taken. The principal Charge of the Court as well as the Points for Charge which were related to the jury fully covered all matters in this regard. A reading of the testimony will very definitely reveal that the Commonwealth did fully establish a willful, deliberate, and premeditated homicide and that this was accomplished with a deadly weapon. Cf. *Commonwealth vs. Myers* 439 Pa. 381, 266 A2d 756 and *Commonwealth vs. Pavkovich* 444 Pa. 530, 283 A2d 295.

Defendant next attacks the Court's instructions to the jury alleging that it placed undue emphasis on the law governing murder in the first degree and failing to adequately cover second degree murder; and, further, declaring that the Court over-emphasized its opinion that the circumstances could not warrant a verdict of

voluntary manslaughter. It is to be noted first that no objection to the Charge in this respect was made by counsel except with reference to the possible verdict of voluntary manslaughter. Read as a whole, we are satisfied that the Court's Charge fully and adequately left with the jury the determination of all matters upon which any verdict, and particularly, of murder in the first degree, could be based. We are of the opinion that the Court's Charge was eminently fair and did not take any matter from the jury in any respect. The defendant's further objection to the fact that the Court declared to the jury that if it found a verdict of guilty in the first degree, it could not impose the death penalty. We do not believe that the defendant was harmed in any way, and further that the jury was entitled to this instruction. Insofar as the Court's reference to the possible verdict of voluntary manslaughter is concerned, a reading of the Court's statements in this regard definitely indicates that the jury had to understand that it was not a binding direction, but that they could return such a verdict if they felt that it was indicated. This is particularly true when it is felt that the whole of the Charge fairly presented all matters to the jury.

Defendant next alleges that the District Attorney made inflammatory and prejudicial remarks in his closing address, and that the District Attorney made unwarranted speculation to the jury as to how the homicide occurred, none of which it is alleged was based on any fact; and that therefore, the Court erred in failing to grant defendant's motion for mistrial. Some of the assertions made by defendant in its Brief are not sustained by the record; and those which are

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Order

sustained, are not sufficient at all to call for the mistrial. We are satisfied that in our recollection nothing inflammatory was declared by counsel for the Commonwealth and certainly his remarks were not prejudicial to the defendant but comported with proper presentation of arguments to the jury seeking its favorable verdict. Therefore, we also reject this avenue of attack upon the verdict.

Lastly, the defendant attacks the verdict on the basis that it was contrary to the evidence produced at trial and also contrary to the law. All that need to be declared in regard to this assertion is that a reading of the testimony clearly divulges more than sufficient proof to establish the guilt of the defendant and that certainly the law applicable thereto sustains the following

ORDER

NOW, January 15, 1973, motion for new trial is dismissed and it is ORDERED that the defendant be presented when called for the purpose of Sentencing.

BY THE COURT,